

TAX CODE
TITLE 2. STATE TAXATION
SUBTITLE E. SALES, EXCISE, AND USE TAXES
CHAPTER 152. TAXES ON SALE, RENTAL, AND USE OF MOTOR VEHICLES

SUBCHAPTER A. GENERAL PROVISIONS

- Section 152.001. Definitions
- Section 152.002. Total Consideration
- Section 152.003. Duties of Comptroller

SUBCHAPTER B. IMPOSITION OF TAX

- Section 152.021. Retail Sales Tax
- Section 152.0215. Texas Emissions Reduction Plan Surcharge [Expires August 31, 2019]
- Section 152.022. Tax on Motor Vehicle Purchased Outside This State
- Section 152.023. Tax on Motor Vehicle Brought into State by New Texas Resident
- Section 152.024. Tax on an Even Exchange of Motor Vehicles
- Section 152.025. Tax on Gift of Motor Vehicle
- Section 152.026. Tax on Gross Rental Receipts
- Section 152.027. Tax on Metal Dealer Plates
- Section 152.028. Use Tax on Motor Vehicle Brought Back into State

SUBCHAPTER C. COLLECTION OF TAXES

- Section 152.041. General Collection Procedure
- Section 152.0411. Collection by Sellers
- Section 152.0412. Standard Presumptive Value; Use by Tax Assessor-Collector
- Section 152.042. Collection of Tax on Metal Dealer Plates
- Section 152.043. Collection of Tax on Motor Vehicles Operated by Nonresidents
- Section 152.044. Payment by Seller
- Section 152.045. Collection of Tax on Gross Rental Receipts
- Section 152.046. Change in Tax Status of Motor Vehicle
- Section 152.047. Collection of Tax on Seller-Financed Sale
- Section 152.0472. Determination of Whether Loan is Factored, Assigned or Transferred
- Section 152.0475. Registration of Related Finance Company
- Section 152.048. Gross Receipts Presumed Subject to Tax

SUBCHAPTER D. TAX ENFORCEMENT PROCEDURES

- Section 152.061. Registration of Motor Vehicle Purchased for Rental
- Section 152.062. Required Statements
- Section 152.063. Records
- Section 152.0635. Records of Certain Sellers
- Section 152.064. Tax Receipts
- Section 152.065. Required Permits
- Section 152.066. Deficiency Determination; Penalty and Interest
- Section 152.067. Petition for Redetermination of a Deficiency
- Section 152.068. Revocation of Motor Vehicle Retail Seller's Permit
- Section 152.069. Registration of Motor Vehicle Using Seller-Financing

SUBCHAPTER E. EXEMPTIONS

- Section 152.081. Driver Training Motor Vehicles
- Section 152.082. Sale of Motor Vehicle to or Use of Motor Vehicle by Public Agency
- Section 152.083. Lease of Motor Vehicle to Public Agency
- Section 152.084. Rental of Motor Vehicle to Public Agency
- Section 152.085. Rental of Motor Vehicle for Purposes of Re-Rental
- Section 152.086. Motor Vehicles Driven by Handicapped Persons
- Section 152.087. Fire Trucks and Emergency Medical Services Vehicles
- Section 152.088. Motor Vehicles Used for Religious Purposes
- Section 152.089. Exempt Vehicles
- Section 152.090. Certain Hydrogen-Powered Motor Vehicles
- Section 152.091. Farm or Timber Use
- Section 152.092. Motor Vehicles Transported Out of State
- Section 152.093. Motor Vehicles Sold to Certain Licensed Child-Care Facilities

SUBCHAPTER F. PENALTIES

- Section 152.101. Penalty for Signing False Statement or Certificate
- Section 152.102. Operation Without Payment of Tax
- Section 152.103. Failure to Keep Records
- Section 152.104. Failure to Remit Tax Collected
- Section 152.105. Venue for Criminal Prosecutions
- Section 152.106. Prohibited Advertising; Criminal Penalty

SUBCHAPTER G. DISPOSITION OF TAXES

- Section 152.121. Tax Sent to Comptroller
- Section 152.122. Allocation of Tax
- Section 152.1222. Allocation of Certain Tax Revenue to Property Tax Relief Fund
- Section 152.123. Tax Retained by County

SUBCHAPTER A. GENERAL PROVISIONS

Section 152.001. Definitions

In this chapter:

(1) "Sale" includes:

- (A) an installment and credit sale;
- (B) an exchange of property for property or money;
- (C) an exchange in which property is transferred but the seller retains title as security for payment of the purchase price;
- (D) a transaction in which a motor vehicle is transferred to another person without payment of consideration and that does not qualify as a gift under Section 152.025; and
- (E) any other closed transaction that constitutes a sale.

(2) "Retail sale" means a sale of a motor vehicle except:

(A) the sale of a new motor vehicle in which the purchaser is a franchised dealer who is authorized by law and by franchise agreement to offer the vehicle for sale as a new motor vehicle and who acquires the vehicle either for the exclusive purpose of sale in the manner provided by law or for purposes allowed under Chapter 503, Transportation Code;

(B) the sale of a vehicle other than a new motor vehicle in which the purchaser is a dealer who holds a dealer's general distinguishing number issued under Chapter 503, Transportation Code, and who acquires the vehicle either for the exclusive purpose of resale in the manner provided by law or for purposes allowed under Chapter 503, Transportation Code;

(C) the sale to a franchised dealer of a new motor vehicle removed from the franchised dealer's inventory for the purpose of entering into a contract to lease the vehicle to another person if, immediately after executing the lease contract, the franchised dealer transfers title of the vehicle and assigns the lease contract to the lessor of the vehicle; or

(D) the sale of a new motor vehicle in which the purchaser is a manufacturer or distributor as those terms are defined by Section 2301.002, Occupations Code, who acquires the motor vehicle either for the exclusive purpose of sale in the manner provided by law or for purposes allowed under Section 503.064, Transportation Code.

(3) "Motor Vehicle" includes:

(A) a self-propelled vehicle designed to transport persons or property on a public highway;

(B) a trailer and semitrailer, including a van, flatbed, tank, dumpster, dolly, jeep, stinger, auxiliary axle, or converter gear; and

(C) a house trailer as defined by Chapter 501, Transportation Code.

(4) "Motor Vehicle" does not include:

(A) a device moved only by human power;

(B) a device used exclusively on stationary rails or tracks;

(C) road-building machinery;

(D) a mobile office;

(E) a vehicle with respect to which the certificate of title has been surrendered in exchange for:

(i) a salvage vehicle title issued pursuant to Chapter 501, Transportation Code;

(ii) a certificate of authority issued pursuant to Chapter 683, Transportation Code;

(iii) a nonrepairable vehicle title issued pursuant to Chapter 501, Transportation Code;

(iv) an ownership document issued by another state if the document is comparable to a document issued pursuant to Subparagraph (i), (ii), or (iii);

(F) a vehicle that has been declared a total loss by an insurance company pursuant to the settlement or adjustment of a claim; or

(G) an oilfield portable unit.

(5) "Rental" means:

(A) an agreement by the owner of a motor vehicle to give for not longer than 180 days the exclusive use of that vehicle to another for consideration;

(B) an agreement by the original manufacturer of a motor vehicle to give exclusive use of the motor vehicle to another for consideration; or

(C) an agreement to give exclusive use of a motor vehicle to another for re-rental purposes.

(6) "Lease" means an agreement, other than a rental, by an owner of a motor vehicle to give for longer than 180 days exclusive use of the vehicle to another for consideration.

(7) "Public agency" means:

(A) a department, commission, board, office, institution, or other agency of this state or of a county, city, town, school district, hospital district, water district, or other special district or authority or political subdivision created by or under the constitution or the statutes of this state; or

(B) an unincorporated agency or instrumentality of the United States.

(8) "Gross rental receipts" means value received or promised as consideration to the owner of a motor vehicle for rental of the vehicle, but does not include:

(A) separately stated charges for insurance;

(B) charges for damages to the motor vehicle occurring during the rental agreement period;

(C) separately stated charges for motor fuel sold by the owner of the motor vehicle; or

(D) discounts.

(9) "Owner of a motor vehicle" means:

(A) a person named in the certificate of title as the owner of the vehicle; or

(B) a person who has the exclusive use of a motor vehicle by reason of a rental and holds the vehicle for re-rental.

(10) "Orthopedically handicapped person" means a person who because of a physical impairment is unable to operate or reasonably be transported in a motor vehicle that has not been specially modified.

(11) "Volunteer fire department" means a company, department, or association whose members receive no or nominal compensation and which is organized for the purpose of

answering fire alarms and extinguishing fires or answering fire alarms, extinguishing fires, and providing emergency medical services.

(12) "Motor vehicle used for religious purposes" means a motor vehicle that is:

- (A) designed to carry more than six passengers;
- (B) sold to, rented to, or used by a church or religious society;
- (C) used primarily for the purpose of providing transportation to and from a church or religious service or meeting; and
- (D) not registered as a passenger vehicle and not used primarily for the personal or official needs or duties of a minister.

(13) "Farm machine" means a self-propelled motor vehicle specially adapted for use in the production of crops or rearing of livestock, including poultry, and use in feedlots and includes a self-propelled motor vehicle specially adapted for applying plant food materials, agricultural chemicals, or feed for livestock. "Farm machine" does not include any self-propelled motor vehicle specifically designed or specially adapted for the sole purpose of transporting agricultural products, plant food materials, agricultural chemicals, or feed for livestock.

(14) "Nonprofit" means:

- (A) organized as a nonprofit corporation under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes); or
- (B) organized and operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation other than reasonable compensation for services rendered by persons who are not members of the organization, or realization of any other form of private gain.

(15) "Seller-financed sale" means a retail sale of a motor vehicle by a dealer licensed under Chapter 503, Transportation Code, in which the seller collects all or part of the total consideration in periodic payments and retains a lien on the motor vehicle until all payments have been received. The term does not include a:

- (A) retail sale of a motor vehicle in which a person other than the seller provides the consideration for the sale and retains a lien on the motor vehicle as collateral;
- (B) lease; or
- (C) rental.

(16) "Mobile office" means a trailer designed to be used as an office, sales outlet, or other workplace.

(17) "Lessor" means a person who acquires title to a new motor vehicle for the purpose of leasing the vehicle to another person.

(18) "New motor vehicle" means a motor vehicle that, without regard to mileage, has not been the subject of a retail tax.

(19) "Franchised dealer" has the meaning assigned the term by Chapter 503, Transportation Code.

(20) "Oilfield portable unit" means a bunkhouse, manufactured home, trailer, or semitrailer that:

- (A) is not a travel trailer, as defined by Section 502.166(e), Transportation Code;
- (B) is designed to be used for temporary lodging or as temporary office space;
- (C) is used exclusively at any oil, gas, water disposal, or injection well site to provide to well site employees, contractors, or other workers sleeping accommodations or temporary work space, including office space; and
- (D) does not require attachment to a foundation or to real property to be functional.

Section 152.002. Total Consideration

(a) "Total consideration" means the amount paid or to be paid for a motor vehicle and its accessories attached on or before the sale, without deducting:

- (1) the cost of the motor vehicle;
- (2) the cost of material, labor or service, interest paid, loss, or any other expense;
- (3) the cost of transportation of the motor vehicle before its sale; or
- (4) the amount of manufacturers' or importers' excise tax imposed on the motor vehicle by the United States.

(b) "Total consideration" does not include:

- (1) a cash discount;
- (2) a full cash or credit refund to a customer of the sales price of a motor vehicle returned to the seller;
- (3) the amount charged for labor or service rendered in installing, applying, remodeling, or repairing the motor vehicle sold;
- (4) a financing, carrying, or service charge or interest on credit extended on a motor vehicle sold under a conditional sale or other deferred payment contract;
- (5) the value of a motor vehicle taken by a seller as all or a part of the consideration for sale of another motor vehicle, including any cash payment to the buyer under Section 348.404 or 353.402, Finance Code;
- (6) a charge for transportation of the motor vehicle after a sale;
- (7) motor vehicle inventory tax; or
- (8) an amount made available to the customer under Subchapter G, Chapter 382, Health and Safety Code.

(c) A person who is in the business of selling, renting, or leasing motor vehicles, who obtains the certificate of title to a motor vehicle, and who uses that motor vehicle for business or personal purposes may deduct its fair market value from the total consideration paid for a replacement vehicle if:

- (1) the person obtains the certificate of title to the replacement motor vehicle;

- (2) the person uses the replacement motor vehicle for business or personal purposes; and
 - (3) the replaced motor vehicle is offered for sale.
- (d) A person who holds a vehicle lessor license under Chapter 2301, Occupations Code, or is specifically not required to obtain a lessor license under Section 2301.254(a) of that code may deduct the fair market value of a replaced motor vehicle that has been leased for longer than 180 days and is titled to another person if:
- (1) either person:
 - (A) holds a beneficial ownership interest in the other person of at least 80 percent; or
 - (B) acquires all of its vehicles exclusively from franchised dealers whose franchisor shares common ownership with the other person; and
 - (2) the replaced motor vehicle is offered for sale.
- (e) A person who is a motor vehicle owner, is in the business of renting motor vehicles, and holds a permit may deduct the fair market value of a replaced motor vehicle that is titled to another person if:
- (1) either person:
 - (A) holds a beneficial ownership interest in the other person of at least 80 percent; or
 - (B) acquires all of its vehicles exclusively from franchised dealers whose franchisor shares common ownership with the other person; and
 - (2) the replaced motor vehicle is offered for sale.
- (f) Notwithstanding Subsection (a), the total consideration of a used motor vehicle is the amount on which the tax is computed as provided by Section 152.0412.

Section 152.003. Duties of Comptroller

- (a) The comptroller may:
 - (1) supervise the collection of taxes imposed by this chapter; and
 - (2) establish rules for the determination of taxable value of motor vehicles and the administration of this chapter.
- (b) The comptroller shall furnish a copy of the rules to each county tax assessor-collector.
- (c) All county tax assessors-collectors shall consistently apply the rules authorized by this section to the determination of taxable value of each motor vehicle purchased in the state or taxable under the use tax levied by this chapter.

**SUBCHAPTER B.
IMPOSITION OF TAX**

Section 152.021. Retail Sales Tax

(a) A tax is imposed on every retail sale of every motor vehicle sold in this state. Except as provided by this chapter, the tax is an obligation of and shall be paid by the purchaser of the motor vehicle.

(b) The tax rate is 6- 1/4 percent of the total consideration.

Section 152.0215. Texas Emissions Reduction Plan Surcharge [Expires August 31, 2019]

(a) Except as provided by Subsection (a-1), a surcharge is imposed on every retail sale, lease, or use of every on-road diesel motor vehicle that is over 14,000 pounds and that is sold, leased, or used in this state. The amount of the surcharge for a vehicle of a model year 1996 or earlier is 2.5 percent of the total consideration and for a vehicle of a model year 1997 or later, one percent of the total consideration.

(a-1) The surcharge does not apply to a recreational vehicle, as that term is defined by Section 522.004(b), Transportation Code, that is not held or used for the production of income.

(b) The surcharge shall be collected at the same time and in the same manner and shall be administered and enforced in the same manner as the tax imposed under this chapter. The comptroller by rule shall adopt any additional procedures needed for the collection, administration, and enforcement of the surcharge authorized by this section and shall deposit all remitted surcharges to the credit of the Texas emissions reduction plan fund.

(c) This section expires August 31, 2019.

Section 152.022. Tax on Motor Vehicle Purchased Outside This State

(a) A use tax is imposed on a motor vehicle purchased at retail sale outside this state and used on the public highways of this state by a Texas resident or other person who is domiciled or doing business in this state.

(b) The tax rate is 6- 1/4 percent of the total consideration.

Section 152.023. Tax on Motor Vehicle Brought into State by New Texas Resident

(a) A use tax is imposed on a new resident of this state who brings into this state a motor vehicle:

(1) that has been registered previously in the new resident's name in any other state or foreign country; or

(2) that the person leased in another state or foreign country.

(b) Except as provided by Subsection (b-1), the tax is \$ 90 for each vehicle.

(b-1) The tax on a motor vehicle eligible to be issued exhibition vehicle specialty license plates under Section 504.502, Transportation Code, is equal to the lesser of \$ 90 or 6.25 percent of the total consideration.

(c) The tax imposed by this section is in lieu of the tax imposed by Section 152.022.

Section 152.024. Tax on an Even Exchange of Motor Vehicles

(a) A tax is imposed on each party to a transaction involving the even exchange of two motor vehicles.

(b) The tax on each party is \$ 5.

(c) No transfer of title in an even exchange shall be accomplished until the taxes have been paid.

Section 152.025. Tax on Gift of Motor Vehicle

(a) A tax is imposed on the recipient of a gift of a motor vehicle. This section applies only if the person receiving the motor vehicle:

(1) receives the vehicle from:

(A) the person's:

- (i) spouse;
- (ii) parent or stepparent;
- (iii) grandparent or grandchild;
- (iv) child or stepchild;
- (v) sibling; or
- (vi) guardian;

(B) a decedent's estate;

(C) a trust subject to the Texas Trust Code (Subtitle B, Title 9, Property Code) that was revocable by a decedent or that was jointly revocable by a decedent and the decedent's spouse; or

(D) a trust subject to the Texas Trust Code that is revocable by the person receiving the motor vehicle or that is jointly revocable by the recipient and the recipient's spouse;

(2) is a trust subject to the Texas Trust Code that is revocable by the transferor of the motor vehicle or that is jointly revocable by the transferor and the transferor's spouse; or

(3) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization under Section 501(c)(3) of that code, and the vehicle will be used for the purposes of the organization.

(b) The tax is \$ 10.

Section 152.026. Tax on Gross Rental Receipts

- (a) A tax is imposed on the gross rental receipts from the rental of a rented motor vehicle.
- (b) The tax rate is 10 percent of the gross rental receipts from the rental of a rented motor vehicle for 30 days or less and 6- 1/4 percent of the gross rental receipts from the rental of a rented motor vehicle for longer than 30 days.
- (c) Except for a destroyed motor vehicle or an unrecovered stolen motor vehicle, the total amount of gross rental receipts tax paid by the owner, as defined by Section 152.001(9)(A) of this code, on a motor vehicle registered under Section 152.061 of this code may not be less than an amount equal to the tax that would be imposed by Section 152.021 or 152.022 of this code but for Subsection (d) of this section.
- (d) The taxes imposed by Sections 152.021 and 152.022 of this code are not due on a motor vehicle as long as it is registered as a rental vehicle under Section 152.061 of this code.

Section 152.027. Tax on Metal Dealer Plates

- (a) A use tax is imposed on each person to whom is issued a metal dealer's plate authorized by Chapter 503, Transportation Code.
- (b) The tax is \$ 25 for each plate issued.
- (c) The tax imposed by this section is in lieu of any other tax imposed by this chapter.

Section 152.028. Use Tax on Motor Vehicle Brought Back into State

- (a) A use tax is imposed on the operator of a motor vehicle that was purchased tax-free under Section 152.092 of this code and that is brought back into this state for use on the public highways of this state. The tax is imposed at the time the motor vehicle is brought back into this state.
- (b) The tax rate is 6- 1/4 percent of the total consideration.

**SUBCHAPTER C.
COLLECTION OF TAXES**

Section 152.041. General Collection Procedure

- (a) The tax assessor-collector of the county in which an application for registration or for a Texas certificate of title is made shall collect taxes imposed by this chapter, subject to Section 152.0412, unless another person is required by this chapter to collect the taxes.
- (b) Except as provided by Section 152.069, the tax assessor-collector may not accept an application unless the tax and any penalty is paid.
- (c) Except as provided by Subsection (f) and Section 152.047, the tax imposed by Section 152.021 is due on the 20th working day after the date the motor vehicle is delivered to the purchaser.

(d) Except as provided by Subsection (f), the tax imposed by Section 152.022 is due on the 20th working day after the date the motor vehicle is brought into this state.

(e) If a motor vehicle title applicant has paid the tax to the seller who is required by this chapter to collect the tax and the seller has failed to remit the tax to the county tax assessor-collector, the tax assessor-collector may accept application for title to the motor vehicle without the payment of additional tax by the applicant. Before title to the motor vehicle may be issued under these circumstances, the motor vehicle title applicant must present satisfactory documentation to the tax assessor-collector that the tax was paid. The county tax assessor-collector shall notify the comptroller in writing of the seller's failure to remit the tax. The notice must:

- (1) be made before the 31st day after the date the application for title is accepted;
- (2) contain the name and address of the seller; and
- (3) include any documentation of the payment of the tax provided to the county tax assessor-collector by the motor vehicle title applicant.

(f) The tax imposed by Section 152.021 or 152.022 on a motor vehicle designed for commercial use is due on the 20th working day after the date the motor vehicle is equipped with a body or other equipment that enables the motor vehicle to be eligible to be registered under the Transportation Code.

Section 152.0411. Collection by Sellers

(a) Except as provided by this section, a seller who makes a sale subject to the sales tax imposed by Section 152.021 shall add the amount of the tax to the sales price, and when the amount of the tax is added:

- (1) it is a debt of the purchaser to the seller until paid; and
- (2) if unpaid, it is recoverable at law in the same manner as the original sales price.

(b) The seller shall collect the tax from the purchaser and remit it to the tax assessor-collector in the time and manner provided by law.

(c) This section applies only to the sale of a vehicle that is to be titled and registered in Texas. If a purchaser intends to register a vehicle outside Texas, the purchaser shall comply with the terms of Section 152.092.

(d) This section does not apply to a seller-financed sale.

(e) This section applies only to a sale in which the seller is a motor vehicle dealer who holds a dealer license issued under Chapter 503, Transportation Code, or Chapter 2301, Occupations Code.

(f) This section does not apply to the sale of a motor vehicle with a gross weight in excess of 11,000 pounds. The seller of a motor vehicle with a gross weight in excess of 11,000 pounds shall maintain records of the sale in the manner and form, and containing the information, required by the comptroller.

Section 152.0412. Standard Presumptive Value; Use by Tax Assessor-Collector

(a) In this section, "standard presumptive value" means the private-party transaction value of a motor vehicle, as determined by the Texas Department of Motor Vehicles based on an appropriate regional guidebook of a nationally recognized motor vehicle value guide service, or based on another motor vehicle guide publication that the department determines is appropriate if a private-party transaction value for the motor vehicle is not available from a regional guidebook described by this subsection.

(b) If the amount paid for a motor vehicle subject to the tax imposed by this chapter is equal to or greater than 80 percent of the standard presumptive value of the vehicle, a county tax assessor-collector shall compute the tax on the amount paid.

(c) If the amount paid for a motor vehicle subject to the tax imposed by this chapter is less than 80 percent of the standard presumptive value of the vehicle, a county tax assessor-collector shall compute the tax on the amount that is equal to 80 percent of the standard presumptive value of the vehicle, unless the purchaser establishes the valuation of the vehicle as provided by Subsection (d).

(d) A county tax assessor-collector shall compute the tax imposed by this chapter on the valuation of a motor vehicle if the valuation is shown on:

(1) documentation, including a receipt or invoice, provided by the seller to the purchaser of the vehicle, but only if the seller is a motor vehicle dealer operating under Subchapter B, Chapter 503, Transportation Code, or under similar regulatory requirements of another state; or

(2) an appraisal certified by an adjuster licensed under Chapter 4101, Insurance Code, by a motor vehicle dealer operating under Subchapter B, Chapter 503, Transportation Code, or by an adjuster or motor vehicle dealer licensed or operating under similar regulatory requirements of another state.

(d-1) An appraisal described by Subsection (d)(2):

(1) must be on a form prescribed by the comptroller for that purpose; and

(2) must be obtained by the purchaser of the vehicle not later than the 20th working day after the date the motor vehicle is delivered to the purchaser or is brought into this state, as applicable.

(e) On request, a motor vehicle dealer operating under Subchapter B, Chapter 503, Transportation Code, or under similar regulatory requirements of another state shall provide a certified appraisal of the valuation of a motor vehicle. The comptroller by rule shall establish a fee that a dealer may charge for providing the certified appraisal. The county tax assessor-collector shall retain a copy of a certified appraisal received under this section for a period prescribed by the comptroller.

(f) The Texas Department of Motor Vehicles shall maintain information on the standard presumptive values of motor vehicles as part of the department's registration and title system. The department shall update the information at least quarterly each calendar year and publish, electronically or otherwise, the updated information.

(g) This section does not apply to a transaction described by Section 152.024 or 152.025.

(h) This section does not apply to a motor vehicle disposed of in accordance with Chapter 2303, Occupations Code, or Chapter 70, Property Code, or sold by a federal, state, or local governmental entity at public auction, including an auction authorized by Chapter 683, Transportation Code.

(i) This section does not apply to a motor vehicle that is eligible for a specialty license plate under Section 504.501, Transportation Code.

(j) The requirements of Section 501.145, Transportation Code, continue to apply to a transferee of a used motor vehicle who obtains an appraisal under Subsection (d)(2), and obtaining an appraisal does not modify those requirements.

Section 152.042. Collection of Tax on Metal Dealer Plates

A person required to pay the tax imposed by Section 152.027 shall pay the tax to the Texas Department of Motor Vehicles, and the department may not issue the metal dealer's plates until the tax is paid.

Section 152.043. Collection of Tax on Motor Vehicles Operated by Nonresidents

A person doing business in this state who registers a motor vehicle under Section 502.091, Transportation Code, shall pay the tax imposed by Section 152.022 of this code to the comptroller on or before the day the motor vehicle is brought into Texas.

Section 152.044. Payment by Seller

(a) If the comptroller on an audit of the records of a seller finds that the amount of tax due was incorrectly reported on a joint statement and that the amount of tax paid was less than the amount due, the seller and purchaser are jointly and severally liable for the amount of the tax determined to be due.

(b) The comptroller shall ascertain compliance with the terms of this section. If the comptroller on an audit of the records of a motor vehicle dealer finds that the documents necessary to title and register a motor vehicle in the name of the purchaser of the motor vehicle have not been executed and delivered to the tax assessor-collector, together with tax due, if any, the motor vehicle dealer is liable for the amount of the tax due, plus penalty and interest, if any.

Section 152.045. Collection of Tax on Gross Rental Receipts

(a) Except as inconsistent with this chapter and rules adopted under this chapter, an owner of a motor vehicle subject to the tax on gross rental receipts shall report and pay the tax to the comptroller in the same manner as the Limited Sales, Excise and Use Tax is reported and paid by retailers under Chapter 151 of this code.

(b) The owner shall add the tax to the rental charge, and when added, the tax is:

(1) a part of the rental charge;

(2) a debt owed to the motor vehicle owner by the person renting the vehicle; and

(3) recoverable at law in the same manner as the rental charge.

(c) The comptroller may proceed against a person renting a motor vehicle for any unpaid gross rental receipts tax.

(d) In addition to any other penalty provided by law, the owner of a motor vehicle subject to the tax on gross rental receipts who is required to file a report as provided by this chapter and who fails to timely file the report shall pay a penalty of \$ 50. The penalty provided by this subsection is assessed without regard to whether the taxpayer subsequently files the report or whether any taxes were due from the taxpayer for the reporting period under the required report.

Section 152.046. Change in Tax Status of Motor Vehicle

(a) If the owner, as defined by Section 152.001(9)(A) of this code, of a motor vehicle registered as a rental vehicle ceases to use the vehicle for rental, the owner shall report and remit on the next report required to be filed with the comptroller by Section 152.045(a) of this code any unpaid portion of gross rental receipts tax imposed by Section 152.026 of this code.

(b) An owner of a motor vehicle on which the motor vehicle sales or use tax has been paid who subsequently uses the vehicle for rental shall collect the gross rental receipts tax imposed by this chapter from the person renting the vehicle. The owner may credit an amount equal to the motor vehicle sales or use tax paid by the owner to the comptroller against the amount of gross rental receipts due. This credit is not transferable and cannot be applied against tax due and payable from the rental of another vehicle belonging to the same owner.

(c) For the purpose of determining the amount of minimum tax due under Section 152.026(c) of this code only, an owner of a motor vehicle on which the tax on gross rental receipts is imposed may credit against the amount of gross rental receipts due an amount equal to the tax on gross rental receipts the owner has paid to any other state. This credit is not transferable and cannot be applied against tax due and payable from the rental of another vehicle belonging to the same owner.

Section 152.047. Collection of Tax on Seller-Financed Sale

(a) Except as inconsistent with this chapter and rules adopted under this chapter, the seller of a motor vehicle shall report and pay the tax imposed on a seller-financed sale to the comptroller on the seller's receipts from seller-financed sales in the same manner as the sales tax is reported and paid by a retailer under Sections 151.401, 151.402, 151.405, 151.406, 151.409, 151.423, 151.424, and 151.425.

(b) If a note, mortgage, account receivable, or other document evidencing the purchaser's indebtedness to the seller of a vehicle sold subject to a seller-financed sale does not bear interest, it will be conclusively presumed that the total consideration for the sale is principal.

(c) If a note, mortgage, account receivable, or other document evidencing the purchaser's indebtedness to the seller of a vehicle sold subject to a seller-financed sale bears interest,

it is conclusively presumed that interest accrues and is paid by the purchaser on a straight line basis.

(d) The seller shall add the tax imposed on a seller-financed sale to the sales price of the vehicle sold, and when added, the tax is:

- (1) a part of the sales price;
- (2) a debt owed to the seller by the purchaser; and
- (3) recoverable at law in the same manner as the sales price.

(e) Regardless of the accounting method used by the seller, the seller shall collect and pay the tax imposed on a seller-financed sale to the comptroller as the seller receives the proceeds of the sale.

(f) If the seller fails to apply, not later than the 60th day after the date the motor vehicle is delivered to the purchaser, for registration and a Texas certificate of title for a motor vehicle sold in a seller-financed sale in accordance with Section 152.069, the seller is liable for all unpaid tax on the total consideration, and the tax is due and must be sent to the comptroller with the first report after the expiration of the prescribed period.

(g) If a seller factors, assigns, or otherwise transfers the right to receive payments, all unpaid tax is due on the total consideration not reported at the time the agreement is factored, assigned, or otherwise transferred. The seller shall report and submit the tax in the report period in which the right to receive the payment is factored, assigned, or otherwise transferred. The seller may not take a deduction in the amount of tax due if a transfer at a discount is made.

(g-1) Subsection (g) does not apply to a transaction by a dealer, as defined by Section 503.001, Transportation Code, in which the dealer:

- (1) sells a purchaser's account to a person registered under Section 152.0475 as a related finance company; or
- (2) grants a security interest in a purchaser's account but retains custody and control of the account and the right to receive payments in the absence of a default under the security agreement.

(h) The comptroller may proceed against the purchaser in a seller-financed sale for the amount of any tax not paid by the purchaser.

(i) The comptroller shall adopt rules and promulgate forms necessary to implement this section.

(j) In addition to any other penalty provided by law, the seller of a motor vehicle sold in a seller-financed sale who is required to file a report as provided by this chapter and who fails to timely file the report shall pay a penalty of \$ 50. The penalty provided by this subsection is assessed without regard to whether the taxpayer subsequently files the report or whether any taxes were due from the taxpayer for the reporting period under the required report.

Section 152.0472. Determination of Whether Loan is Factored, Assigned or Transferred

(a) A seller is not considered to have factored, assigned, or transferred a loan under Section 152.047(g) if:

(1) a loan through a seller is pledged as security for the sale of bonds:

(A) to a qualified institutional buyer, as that term is defined by 17 C.F.R. Section 230.144A, that is not affiliated to the seller;

(B) to an institutional accredited investor, as that term is defined by 17 C.F.R. Section 230.501(a)(1), (2), (3), or (7), that is not affiliated to the seller; or

(C) in a public offering;

(2) the right to receive payments and the risk of loss on nonpayment remains with the seller or an affiliated collection entity acting as agent of the seller; and

(3) bondholders receive only interest and principal.

(b) Notwithstanding Subsection (a), the seller may elect to pay all unpaid tax imposed under this chapter on the total consideration. A seller that makes this election is entitled to a credit or reimbursement for the taxes paid under this chapter on the remaining unpaid balance of the contract for which the seller has not received payment or has not otherwise collected the tax due. The seller shall take the tax credit or reimbursement on the seller's seller-finance return. The tax credit or reimbursement does not accrue interest.

Section 152.0475. Registration of Related Finance Company

(a) "Related finance company" means a person in which at least 80 percent of the ownership is identical to the ownership of a dealer, as defined by Section 503.001, Transportation Code.

(b) The comptroller shall establish a registration system for related finance companies under this section.

(c) A related finance company may annually register with the comptroller on a form prescribed by the comptroller. The comptroller shall make the forms available to the public.

(d) The comptroller may charge an annual fee for each registration. The fee may not exceed \$ 1,500.

(e) The comptroller may adopt rules to implement this section.

Section 152.048. Gross Receipts Presumed Subject to Tax

(a) All gross receipts of a seller required to obtain a permit under Section 152.065 are presumed to be subject to the provisions of this code.

(b) The presumption provided by Subsection (a) does not apply to receipts:

(1) on which a tax imposed under other law is computed and paid to the comptroller; or

- (2) for which a properly completed resale or exemption certificate is accepted by the seller.
- (c) The seller may overcome the presumption under Subsection (a) by credible evidence that the receipts are not from a seller-financed sale or that the tax on those receipts has been sent to the comptroller.

**SUBCHAPTER D.
TAX ENFORCEMENT PROCEDURES**

Section 152.061. Registration of Motor Vehicle Purchased for Rental

- (a) An owner of a motor vehicle purchased for rental may furnish the county tax assessor-collector a rental certificate in lieu of the motor vehicle sales or use tax imposed by Sections 152.021 and 152.022 of this code. The county tax assessor-collector shall accept the motor vehicle for registration and issue a receipt for the license and title application.
- (b) A rental certificate may be furnished by:
 - (1) a dealer licensed under Chapter 503, Transportation Code; or
 - (2) the owner if the vehicle is for use in a rental business that rents at least five different motor vehicles within any 12-month period.
- (c) The rental certificate shall be in a form designated by the comptroller and must contain:
 - (1) the name, address, and signature of the owner;
 - (2) the owner's or dealer's license number or a statement by the owner that the rental business of the owner meets the activity requirements of Subsection (b) of this section;
 - (3) the motor vehicle identification number; and
 - (4) the amount of total consideration for the motor vehicle and the amount of tax that would be due if the rental certificate had not been furnished.

Section 152.062. Required Statements

- (a) The persons obligated by this chapter to pay taxes on the transaction shall file a joint statement with the tax assessor-collector of the county in which the application for registration and for a Texas certificate of title is made.
- (b) The statement must be in the following form:
 - (1) if a motor vehicle is sold, the seller and purchaser shall make a joint statement of the then value in dollars of the total consideration for the vehicle;
 - (2) if the ownership of a motor vehicle is transferred as the result of an even exchange, the principal parties shall make a joint statement describing the nature of the transaction; or

(3) if the ownership of a motor vehicle is transferred as the result of a gift, the principal parties shall make a joint statement describing the nature of the transaction and the relationship between the principal parties.

(b-1) A joint statement required by Subsection (b)(3) must be notarized.

(b-2) A joint statement required by Subsection (b)(3) that relates to a gift from a person or estate described by Section 152.025(a)(1) must be filed in person by the recipient of the gift or, as applicable, the person from whom the gift is received or a person authorized to act on behalf of the estate from which the gift is received. A motor vehicle title service required to be licensed under Chapter 520, Transportation Code, may not be used to file the statement. The person who files the statement must present to the tax assessor-collector an unexpired identification document issued to the person that bears the person's photograph and is:

(1) a driver's license or personal identification card issued by this state or another state of the United States;

(2) an original United States passport or an original passport issued by a foreign country;

(3) an identification card or similar form of identification issued by the Texas Department of Criminal Justice;

(4) a United States military identification card; or

(5) an identification card or document issued by the United States Department of Homeland Security or United States Citizenship and Immigration Services.

(c) If a party to a sale, even exchange, or gift is a corporation, the president, vice-president, secretary, manager, or other authorized officer of the corporation shall make the statement for the corporation.

(d) *Repealed by Acts 1999, 76th Leg., ch. 1467, § 4.01(3), effective June 19, 1999.*

(e) The tax assessor-collector shall examine each joint statement for the purpose of determining the truth and accuracy of the information it contains. If the tax assessor-collector or the comptroller has reason to question the truth of the information in a statement, or if any material fact fails to meet the guidelines promulgated by the comptroller, the tax assessor-collector or the comptroller shall require any party to the statement to furnish substantiation of information contained in the statement.

(f) The tax assessor-collector shall immediately report to the nearest peace officer and to the comptroller, the name and address of each party whose name is signed on a joint statement found to be false in any material fact.

(g) The tax assessor-collector shall keep a copy of each statement and any substantiating materials required to be furnished in connection therewith until it is called for by the comptroller for auditing or by any court of competent jurisdiction.

Section 152.063. Records

(a) The seller of a motor vehicle shall keep at his principal office for at least four years from the date of the sale a complete record of each retail sale of a motor vehicle. The record must include a copy of the invoice of each vehicle sold. The invoice copy must show the full price of the motor vehicle and the itemized price of all its accessories. All sales and supporting records of a seller are open to inspection and audit by the comptroller.

(b) The owner of a motor vehicle used for rental purposes shall keep for four years after purchase of a motor vehicle records and supporting documents containing the following information on the amount of:

- (1) total consideration for the motor vehicle;
- (2) motor vehicle sales or use tax paid on the motor vehicle;
- (3) gross rental receipts received from the rental of the motor vehicle; and
- (4) gross rental receipts tax paid to the comptroller on each motor vehicle used for rental purposes by the owner.

(c) No mileage records are required.

(d) A seller's business records must show the total receipts from all sources of income and expense, including transactions involving motor vehicles.

(e) For a retail sale for which the seller receives full payment at the time of sale, the seller shall keep, at the seller's principal office for at least four years from the date of the sale, documentation of complete payment in the form of:

- (1) a copy of the payment instrument or a receipt for cash received; and
- (2) a copy of the receipt for title application, registration, and motor vehicle tax issued by the county tax assessor-collector.

(f) For a sale for resale, the seller shall keep, at the seller's principal office for at least four years from the date of the sale, the purchaser's written statement of resale on a form prescribed by the comptroller.

(g) Any person, other than the seller's employee, acting for the seller of a motor vehicle has the same record-keeping responsibilities as the seller.

(h) Section 111.0041 applies to a person required to keep records under this chapter.

Section 152.0635. Records of Certain Sellers

(a) In addition to the requirements prescribed by Section 152.063, a seller engaged in seller-financed sales who has a permit under Section 152.065 shall keep the records required by this section.

(b) For seller-financed sales, the seller shall keep at the seller's principal office for at least four years from the date on which the seller receives the final payment for the motor vehicle:

- (1) the lienholder's copy of the receipt for title application, registration, and motor vehicle tax issued by a county tax assessor-collector; and

(2) a ledger or other document containing a complete record of the payment history for that motor vehicle, including:

- (A) the name and address of the purchaser;
- (B) the total consideration;
- (C) the amount of the down payment received at the time the motor vehicle is sold;
- (D) the date and amount of each subsequent payment;
- (E) the date of sale; and
- (F) the date of any repossession.

(c) For retail sales paid in full at the time of sale, the seller shall keep at the seller's principal office for at least four years from the date of the sale documentation of complete payment in the form of:

- (1) a copy of the payment instrument or a receipt for cash received; and
- (2) a copy of the receipt for title application, registration, and motor vehicle tax issued by the county tax assessor-collector.

(d) For sales for resale, the seller shall keep at the seller's principal office for at least four years from the date of the sale the purchaser's written statement of resale on a form prescribed by the comptroller.

(e) Section 111.0041 applies to a person required to keep records under this chapter.

Section 152.064. Tax Receipts

(a) The comptroller shall prescribe the form of a tax receipt to be issued to a person paying a tax imposed by this chapter.

(b) The tax assessor-collector of each county shall:

- (1) issue a receipt to the person paying a tax imposed by this chapter; and
- (2) send a copy of the receipt to the comptroller according to the instructions of the comptroller.

Section 152.065. Required Permits

A motor vehicle owner required to collect, report, and pay a tax on gross rental receipts imposed by this chapter and a seller required to collect, report, and pay a tax on a seller-financed sale shall register as a retailer with the comptroller in the same manner as is required of a retailer under Subchapter F, Chapter 151.

Section 152.066. Deficiency Determination; Penalty and Interest

(a) The comptroller shall give written notice to the seller of a motor vehicle of a deficiency determination made under Section 152.044 of this code.

(b) A person who fails to pay a tax imposed by this chapter when due forfeits five percent of the amount due as a penalty, and if the person fails to pay the tax within 30 days after the day on which the tax is due, the person forfeits an additional five percent.

(c) The minimum penalty imposed by this section is \$ 1.

(d) Except in the case of the gross receipts tax, interest begins to accrue on delinquent taxes 60 days after the day on which the joint statement was executed. Delinquent taxes on gross rental receipts draw interest beginning 60 days from the due date.

Section 152.067. Petition for Redetermination of a Deficiency

(a) The comptroller shall:

(1) promulgate rules under which the seller may petition for a redetermination of deficiency; and

(2) grant an oral hearing to any seller who requests a hearing.

(b) The comptroller may increase or decrease the determination of deficiency before it becomes final, but the amount may be increased only if the comptroller asserts a claim for the increase at or before the oral hearing.

(c) If the comptroller asserts a claim for an increase in the determination, the seller is entitled to a 30-day continuance of the hearing in order to obtain other evidence relating to the items on which the increase is based.

Section 152.068. Revocation of Motor Vehicle Retail Seller's Permit

(a) The comptroller may revoke or suspend any one or more of the permits held by a person if that person fails to comply with a provision of this chapter or with a rule of the comptroller relating to a tax imposed by this chapter.

(b) Before revoking or suspending the permit, the comptroller must provide the permit holder with a hearing. The permit holder must be given at least 20 days' notice specifying the time and place of hearing and requiring that the permit holder show cause why the permit or permits should not be revoked or suspended.

(c) The comptroller shall give the person notice of the suspension or revocation of any permit.

(d) Notice required by this section must be written and may be served either personally or by mail.

(e) The comptroller may not issue a new permit after the revocation of a permit unless satisfied that the former permit holder will comply with the provisions of this chapter and the rules of the comptroller. The comptroller may prescribe the terms under which a suspended permit may be reissued.

(f) The permit holder or person whose permit is revoked may appeal the comptroller's action in the same manner as a final deficiency determination may be appealed.

Section 152.069. Registration of Motor Vehicle Using Seller-Financing

(a) The seller of a motor vehicle sold in a seller-financed sale shall apply for the registration of, and a Texas certificate of title for, the motor vehicle in the name of the purchaser to the appropriate county tax assessor-collector not later than the 45th day after the date the motor vehicle is delivered to the purchaser.

(b) The seller shall provide to the county tax assessor-collector a joint statement as prescribed by Section 152.062 in lieu of the motor vehicle sales tax imposed by Section 152.021. The statement shall include the seller's permit identification number issued by the comptroller.

SUBCHAPTER E. EXEMPTIONS

Section 152.081. Driver Training Motor Vehicles

The taxes imposed by this chapter do not apply to the sale or use of a motor vehicle that is:

- (1) owned by a motor vehicle dealer as defined by Section 503.001, Transportation Code;
- (2) purchased in this state; and
- (3) loaned free of charge by the dealer to a public school for use in an approved standard driver training course.

Section 152.082. Sale of Motor Vehicle to or Use of Motor Vehicle by Public Agency

The taxes imposed by this chapter do not apply to the sale or use of a motor vehicle if the motor vehicle is operated with an exempt license plate issued under Section 502.451, Transportation Code, and is for use by:

- (1) a public agency; or
- (2) a commercial transportation company to provide transportation services under a contract with:
 - (A) a board of county school trustees or school district board of trustees under Section 34.008, Education Code; or
 - (B) the governing body of an open-enrollment charter school.

Section 152.083. Lease of Motor Vehicle to Public Agency

(a) The taxes imposed by this chapter do not apply to the purchase of a motor vehicle that is to be leased to a public agency.

(b) This exemption applies only if the person purchasing the motor vehicle to be leased presents the tax assessor-collector a form prescribed and provided by the comptroller and showing:

- (1) the identification of the motor vehicle;

- (2) the name and address of the lessor and the lessee; and
- (3) verification by an officer of the public agency to which the motor vehicle will be leased that the agency will operate the vehicle with an exempt license plate issued under Section 502.451, Transportation Code.

(c) If a motor vehicle for which the tax has not been paid ceases to be leased to a public agency, the owner shall notify the comptroller on a form provided by the comptroller and shall pay the sales or use tax on the motor vehicle based on the owner's book value of the motor vehicle. The tax is imposed at the same rate that is provided by Section 152.021(b) of this code.

Section 152.084. Rental of Motor Vehicle to Public Agency

The taxes imposed by this chapter do not apply to the rental of a motor vehicle to a public agency. The tax which would have been remitted on gross rental receipts without this exemption shall be deemed to have been remitted for the purpose of calculating the minimum gross rental receipts tax imposed by Section 152.026 of this code.

Section 152.085. Rental of Motor Vehicle for Purposes of Re-Rental

(a) The taxes imposed by this chapter on the gross rental receipts from the rental of a motor vehicle do not apply to the rental of a motor vehicle for the purpose of re-rental.

(b) The minimum gross rental receipts tax imposed by Section 152.026 of this code remains the obligation of the owner as defined by Section 152.001(9)(A) of this code. The owner may credit all gross rental receipts taxes paid to the comptroller on the re-rental of a motor vehicle registered under Section 152.061 of this code for the purpose of calculating the amount of minimum gross rental receipts tax due.

(c) A person authorized by Section 152.061 of this code to register motor vehicles for rental may issue an exemption certificate to the owner of the motor vehicle. An owner who takes the certificate in good faith is relieved of the burden of proving that the motor vehicle was rented for purposes of re-rental.

Section 152.086. Motor Vehicles Driven by Handicapped Persons

(a) The taxes imposed by this chapter do not apply to the sale or use of a motor vehicle that:

- (1) has been or will be modified before the second anniversary of the date of purchase for operation by, or for the transportation of, an orthopedically handicapped person; and

- (2) is driven by or used for the transportation of an orthopedically handicapped person.

(b) The comptroller shall promulgate rules to ensure that motor vehicles exempted from taxation by this section are used primarily by orthopedically handicapped persons. The comptroller may require any individual seeking exemption under this section to present information establishing qualification for the exemption.

(b-1) The seller of a motor vehicle may not collect the tax from the purchaser of the motor vehicle if the purchaser:

- (1) signs at the time of the purchase an exemption certificate that:
 - (A) is on a form designated by the comptroller; and
 - (B) contains all information the comptroller considers reasonable to establish qualification for the exemption at the time of sale; and
- (2) presents any other documentation or information the comptroller requires by rule.

(b-2) Notwithstanding any other provision of this section or other law, the seller of a motor vehicle may rely on a properly executed and signed exemption certificate under Subsection (b-1) and does not have a duty to investigate the propriety of an exemption certificate that is valid on the certificate's face. A seller who relies on an exemption certificate as provided by this subsection is not liable for the payment of motor vehicle sales taxes that would otherwise be due as a result of a motor vehicle sale.

(c) If the comptroller finds that the motor vehicle is not used primarily for the purposes specified in this Act or that the exemption should not have been granted, the comptroller shall assess the tax in an amount that would have been due had the exemption not been given under this section.

Section 152.087. Fire Trucks and Emergency Medical Services Vehicles

The taxes imposed by this chapter do not apply to the purchase, rental, or use of a fire truck, emergency medical services vehicle as defined by Section 773.003, Health and Safety Code, or other motor vehicle used exclusively for fire-fighting purposes or for emergency medical services when purchased by:

- (1) a volunteer fire department;
- (2) a nonprofit emergency medical service provider that receives a federal income tax exemption under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3), Internal Revenue Code of 1986; or
- (3) an emergency medical service provider to which Section 502.456, Transportation Code, applies.

Section 152.088. Motor Vehicles Used for Religious Purposes

The taxes imposed by this chapter do not apply to the sale or use of or the receipts from the rental of a motor vehicle that is used for religious purposes.

Section 152.089. Exempt Vehicles

(a) The taxes imposed by this chapter do not apply to interstate motor vehicles, trailers, and semitrailers; provided that if a motor vehicle, trailer, or semitrailer ceases to be used as an interstate motor vehicle, trailer, or semitrailer within one year of either the date the vehicle was purchased in Texas or the date the vehicle was first brought into Texas, the taxes imposed by this chapter will apply at that time.

(b) If a motor vehicle is no longer leased for interstate use, the owner shall notify the comptroller on a form provided by the comptroller. The owner shall pay a tax at the rate prescribed by Section 152.021(b) on the motor vehicle based on the owner's book value of the motor vehicle.

(c) In this section, "interstate motor vehicle" means a motor vehicle that is operated in this state and another state or country and for which registration fees could be apportioned if the motor vehicle were registered in a state or province of a country that is a member of the International Registration Plan. The term includes a bus used in transportation of chartered parties if the bus meets all the standards required of other motor vehicles for apportioned registration fees. The term does not include a vehicle leased for less than 181 days or a vehicle that has Texas license plates and does not operate under the International Registration Plan.

Section 152.090. Certain Hydrogen-Powered Motor Vehicles

(a) In this section, "hydrogen-powered motor vehicle" means a vehicle that meets the Phase II standards established by the California Air Resources Board as of September 1, 2007, for an ultra low-emission vehicle II or stricter Phase II emission standards established by that board and:

- (1) is hydrogen power capable and has a fuel economy rating of at least 45 miles per gallon; or
- (2) is fully hydrogen-powered.

(b) The taxes imposed by this chapter do not apply to the sale or use of a hydrogen-powered motor vehicle.

Section 152.091. Farm or Timber Use

(a) The taxes imposed by this chapter do not apply to the sale or use of a:

- (1) farm machine, trailer, or semitrailer for use primarily for farming and ranching, including the rearing of poultry, and use in feedlots; or
- (2) machine, trailer, or semitrailer for use primarily for timber operations.

(b) (1) The taxes imposed by this chapter do not apply to the purchase of a:

- (A) farm machine, trailer, or semitrailer that is to be leased for use primarily for farming and ranching, including the rearing of poultry, and use in feedlots; or
- (B) machine, trailer, or semitrailer that is to be leased for use primarily for timber operations.

(2) The exemption provided by this subsection applies only if the person purchasing the machine, trailer, or semitrailer to be leased presents the tax assessor-collector a form prescribed and provided by the comptroller showing:

- (A) the identification of the motor vehicle;
- (B) the name and address of the lessor and the lessee; and

(C) verification by the lessee that the machine, trailer, or semitrailer will be used primarily for:

- (i) farming and ranching, including the rearing of poultry, and use in feedlots; or
- (ii) timber operations.

(3) If a motor vehicle for which the tax has not been paid ceases to be leased for use primarily for farming and ranching, including the rearing of poultry, and use in feedlots or timber operations, the owner shall notify the comptroller on a form provided by the comptroller and shall pay the sales or use tax on the motor vehicle based on the owner's book value of the motor vehicle. The tax is imposed at the same percentage rate that is provided by Section 152.021(b).

(b-1) In addition to the other requirements prescribed by this section, to claim an exemption provided by Subsection (a) or (b) the person purchasing, using, or leasing the machine, trailer, or semitrailer must provide an exemption certificate with a registration number issued by the comptroller under Section 151.1551.

(c) The taxes imposed by this chapter do not apply to the rental of a farm machine, a trailer, or a semitrailer for use primarily for farming and ranching, including the rearing of poultry, and use in feedlots, or a machine, a trailer, or a semitrailer for use primarily for timber operations. The tax that would have been remitted on gross rental receipts without this exemption shall be deemed to have been remitted for the purpose of calculating the minimum gross rental receipts imposed by Section 152.026. The exemption provided by this subsection applies only if the owner of the motor vehicle obtains in good faith an exemption certificate from the person to whom the vehicle is being rented. To claim the exemption, the person renting the vehicle must also provide on the certificate a registration number issued by the comptroller under Section 151.1551.

(d) For purposes of this section, a machine is used "primarily for timber operations" if the machine is a self-propelled motor vehicle that is specially adapted to perform a specialized function in the production of timber, including land preparation, planting, maintenance, and gathering of trees commonly grown for commercial timber. The term does not include a self-propelled motor vehicle used to transport timber or timber products.

Section 152.092. Motor Vehicles Transported Out of State

(a) The taxes imposed by this chapter do not apply to the retail sale of a motor vehicle that is transported out of state, prior to any use in this state other than the transportation of the vehicle out of state, for use exclusively outside this state.

(b) To qualify for the exemption provided by this section the purchaser of a motor vehicle must sign at the time of the purchase an exemption certificate that:

- (1) is on a form designated by the comptroller;
- (2) contains all information the comptroller considers reasonable;
- (3) is signed by the purchaser; and
- (4) provides that the purchaser, by signing the certificate, authorizes the comptroller to provide a copy of the certificate to the state of intended use and registration.

Section 152.093. Motor Vehicles Sold to Certain Licensed Child-Care Facilities

- (a) The taxes imposed by this chapter do not apply to a motor vehicle:
 - (1) purchased, used, or rented by a qualified residential child-care facility; and
 - (2) intended for use primarily in transporting the children residing in the facility under a state license.
- (b) In this section, "qualified residential child-care facility" means a child-care facility:
 - (1) licensed under Chapter 42, Human Resources Code, to provide residential care 24 hours a day to both:
 - (A) children who do not require specialized services or treatment; and
 - (B) children who are emotionally disturbed; and
 - (2) in which children of both classifications listed in Subdivision (1) are permitted by the license to live together in a single residential group.

**SUBCHAPTER
F. PENALTIES**

Section 152.101. Penalty for Signing False Statement or Certificate

- (a) A person commits an offense if the person signs a joint statement required by Section 152.062 or a certificate required by Section 152.092(b) and knows that it is false in any material fact.
- (b) An offense under this section is a felony of the third degree.

Section 152.102. Operation Without Payment of Tax

- (a) A person commits an offense if the person knowingly operates a motor vehicle on a highway of this state without paying the tax imposed by this chapter on the vehicle.
- (b) An offense under this section is a Class C misdemeanor.

Section 152.103. Failure to Keep Records

First of two versions of subsection (a): As amended by Acts 1993, 73rd Leg., ch. 29, § 10

- (a) A seller commits an offense if he fails to make and retain complete records for the period of four years as provided by this chapter.

Second of two versions of subsection (a): As amended by Acts 1993, 73rd Leg., ch. 587, § 25

- (a) A seller commits an offense if the seller fails to make and retain complete records for the period of four years as provided by Subchapter D.
- (b) An offense under this section is a Class C misdemeanor.

Section 152.104. Failure to Remit Tax Collected

(a) A person who is a dealer, as defined by Section 503.001, Transportation Code, or who is acting in the capacity of a dealer, commits an offense if the person intentionally or knowingly fails to pay to the tax assessor-collector the motor vehicle sales tax collected as required by this chapter.

(b) An offense under this section is:

(1) a Class C misdemeanor if the value of the tax collected and not paid is less than \$ 1,500;

(2) a state jail felony if the value of the tax collected and not paid is \$ 1,500 or more but less than \$ 20,000;

(3) a felony of the third degree if the value of the tax collected and not paid is \$ 20,000 or more but less than \$ 100,000;

(4) a felony of the second degree if the value of the tax collected and not paid is \$ 100,000 or more but less than \$ 200,000; and

(5) a felony of the first degree if the value of the tax collected and not paid is \$ 200,000 or more.

(c) When amounts are obtained in violation of this section pursuant to one scheme or continuing course of conduct, whether from the same or several resources, the conduct may be considered as one offense and the amounts aggregated in determining the grade of the offense.

Section 152.105. Venue for Criminal Prosecutions

Venue for prosecution of any offense under this chapter is in:

(1) the county in which any element of the offense occurs; or

(2) Travis County.

Section 152.106. Prohibited Advertising; Criminal Penalty

(a) A person who is required by Chapter 503, Transportation Code, to hold a dealer's general distinguishing number commits an offense if the person directly or indirectly advertises, holds out, or states to a customer or to the public that the person:

(1) will assume, absorb, or refund a part of the tax imposed by this chapter; or

(2) will not add the tax imposed by this chapter to the sales price of the motor vehicle sold, leased, or rented.

(b) An offense under this section is a Class C misdemeanor.

**SUBCHAPTER G.
DISPOSITION OF TAXES**

Section 152.121. Tax Sent to Comptroller

(a) After crediting the amounts as provided by Section 152.123, a county tax assessor-collector shall send money collected from taxes and penalties imposed by this chapter to the comptroller as follows:

- (1) on the 10th day of each month if during the last preceding state fiscal year less than \$ 2 million of the taxes and penalties imposed by this chapter was collected by the office of the county tax assessor-collector;
- (2) once each week if during the last preceding state fiscal year \$ 2 million or more, but less than \$ 10 million, of the taxes and penalties imposed by this chapter was collected by the office of the county tax assessor-collector; or
- (3) daily (as collected) if during the last preceding state fiscal year \$ 10 million or more of the taxes and penalties imposed by this chapter was collected by the office of the county tax assessor-collector.

(b) Taxes on metal dealer plates collected by the Texas Department of Motor Vehicles shall be deposited by the department in the state treasury in the same manner as are other taxes collected under this chapter.

(c) If the amount of net collections under Chapter 502, Transportation Code, and this chapter is insufficient to cover the amount of those net collections authorized to be retained by a county as a percentage of the tax and penalties collected under this chapter, the comptroller shall on request of the county tax assessor-collector authorize the county to retain a portion of the tax and penalties collected under this chapter to cover the deficiency.

Section 152.122. Allocation of Tax

The comptroller shall deposit the funds received under Section 152.121 of this code as follows:

- (1) 1/4 to the credit of the foundation school fund; and
- (2) the remaining funds to the credit of the general revenue fund.

Section 152.1222. Allocation of Certain Tax Revenue to Property Tax Relief Fund

(a) Notwithstanding Section 152.122, the comptroller shall deposit to the credit of the property tax relief fund under Section 403.109, Government Code, the amount of money received under Section 152.121 that is estimated to have been derived from the computation of the tax imposed by this chapter on the standard presumptive values of motor vehicles or on percentages of those values as provided by Section 152.0412.

(b) The comptroller shall determine the amount described by Subsection (a) using available statistical data. If satisfactory data are not available, the comptroller may

require county tax assessor-collectors to report additional information to the comptroller as necessary to make the allocation required by Subsection (a).

Section 152.123. Tax Retained by County

(a) The county tax assessor-collector each calendar year shall calculate five percent of the tax and penalties collected by the county tax assessor-collector under this chapter in the preceding calendar year. In addition, the county tax assessor-collector shall calculate each calendar year an amount equal to five percent of the tax and penalties that the comptroller:

- (1) collected under Section 152.047 in the preceding calendar year; and
- (2) determines are attributable to sales in the county.

(b) The county shall retain the following percentage of the amounts calculated under Subsection (a) during each of the following fiscal years:

- (1) in fiscal year 2006, 10 percent;
- (2) in fiscal year 2007, 20 percent;
- (3) in fiscal year 2008, 30 percent;
- (4) in fiscal year 2009, 40 percent;
- (5) in fiscal year 2010, 50 percent;
- (6) in fiscal year 2011, 60 percent;
- (7) in fiscal year 2012, 70 percent;
- (8) in fiscal year 2013, 80 percent;
- (9) in fiscal year 2014, 90 percent;
- (10) in fiscal year 2015 and succeeding years, 100 percent.

(c) The county shall credit the amounts retained under Subsection (b) to the county's general fund.