



STATE OF WEST VIRGINIA

Department of Revenue State Tax Department

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Governor

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Response to Compliance and Review Interpretation Committee's Finding of Non-Compliance for West Virginia

Summary of Non-Compliance Finding

W. Va. Code § 11-15-3c(f)(10) imposes a 5% sales tax on monthly vehicle lease payments. These payments are made to the West Virginia Division of Motor Vehicles ("DMV") and deposited into the State's Road Fund¹. All other sales tax payments are made to the West Virginia State Tax Department (the "Tax Department") and are deposited into the State's General Revenue Fund.

On October 17, 2011, the Streamlined Sales Tax's Compliance Review and Interpretation Committee ("CRIC") found that West Virginia is out of compliance with section 301 of the Streamlined Sales and Use Tax Agreement ("SSUTA") due to the requirement under W. Va. Code § 11-15-3c(f)(10) that sales taxes on lease payments be remitted to the DMV, and not the Tax Department. Section 301 of the SSUTA provides, in part, that "[e]ach member state shall provide state level administration of sales and use taxes subject to the Agreement. The state level administration may be performed by a member state's Tax Commission, Department of Revenue, or any other single entity designated by state law. Sellers and purchasers are only required to register with, file returns with, and remit funds to the state level authority."

CRIC also found that the provisions of W. Va. Code § 11-15-3c(f)(10) violate the uniform return and remittance language in SSUTA sections 318 and 319.

History of the Privilege Tax/Sales Tax on Motor Vehicle Sales and Leases:

Prior to June 7, 2007

Prior to March 2007, motor vehicles were subject to a 5% "Privilege Tax" under W. Va. Code § 17A-3-4(b) which was remitted to the DMV at the time of titling. Leases of motor vehicles were

¹ W. Va. Code § 11-15-3c(a)-(b) imposes a 5% sales tax on all motor vehicle sales to West Virginia residents. This tax is also remitted to the West Virginia DMV and deposited into the State's Road Fund; however, CRIC did not question this provision and focused solely on the sales tax on lease payments subsection.

exempted from the “Privilege Tax” but made subject to a 5% tax on the monthly payments under the lease, with the tax being remitted to the DMV. W. Va. Code § 17A-3-4(b)(6). These provisions had been in effect for decades.

July 1, 2008 to Present

In 2007, the Legislature passed HB 2775 with an effective date of July 1, 2008. This bill abolished the privilege tax imposed on vehicle sales and the 5% tax levied on vehicle leases. These taxes were replaced with a sales and use tax under new section 11-15-3c

Specifically, the language under § 11-15-3c(g) states that:

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

As of July 1, 2008, DMV’s authority to collect tax on leased vehicles was derived from § 11-15-3c(g). The only thing that changed is that the tax was no longer imposed under the Privilege Tax framework of § 17A-3-4(d), which was abolished. Leasing companies have always, and continue to make, tax filings and payments to the DMV for leases of vehicles to West Virginia residents. The tax collected by the DMV continues to be deposited into the State Road Fund. In 2009, the legislature passed Senate Bill 540, with an effective date of January 1, 2009. This bill included new subsection § 11-15-3c(f)(10). This subsection clarified that motor vehicle leases are excluded from the 5% sales tax on motor vehicle sales, and specified different treatment of short term and long term leases. A 5% sales tax is imposed on the monthly lease payments, and is payable by the lessor to the DMV.

Discussion:

Prior to March 2007, a privilege Tax was imposed upon the sale of certain motor vehicles and a 5% tax was imposed upon monthly payments for the lease of any motor vehicle leased by a resident of

West Virginia. The tax was remitted to the Division of Motor Vehicles on a monthly basis by the lessor of the vehicle. Section 11-15-9(a)(4) and §11-15-9(a)(17) provided exemptions from consumers sales and service tax on sales of motor vehicles and leases for periods of 30 days or more, as these were subject to the privilege tax on motor vehicle sales and the 5% tax on motor vehicle leases.

With the passage of H.B. 2775 and SB 540, the Privilege Tax on motor vehicle sales and the 5% tax on monthly payments on motor vehicle leases were abolished and these taxes were moved to the Sales Tax Article, specifically W. Va. Code 11-15-3c-

Collections of the Privilege Tax were dedicated to the State Road Fund for maintaining West Virginia highways. When moving the collection of the tax to the State Tax Code, the funds remain dedicated to the State Road Fund; therefore, collection by the Department of Motor Vehicles is the most logical method to ensure that the funds are properly deposited into the State Road Fund.

The intent of abolishing the Privilege Tax on motor vehicle sales and the 5% tax on monthly payments of motor vehicle leases and imposing the Consumers Sales and Service Tax on motor vehicle sales and leases was to allow an exemption for new residents when they moved to West Virginia and brought a vehicle into the state. Under the authority of the Motor Vehicle Administration, Registration Chapter 17A, there was no provision for allowing credit for tax paid to another state. The responsibility of collecting the Privilege Tax on both the sale of motor vehicles and on the monthly payment of long term leases of motor vehicles has always been the responsibility of the DMV, and the DMV has remained responsible for administration and collection of the sales tax in this arena.

The Compliance Review and Interpretations Committee should take into account the settled expectations of the motor vehicle leasing industry in West Virginia and the fact that only 35% of these leasing companies even need to file a sales and use tax return with the Tax Department. Currently we have 111 leasing companies filing in WV. These leasing companies' filing patterns are as follows:

- 48% or 53 motor vehicle leasing companies do not file a sales and use tax return with the Tax Department.
- 17% or 19 of the leasing companies file returns showing no amount owed. Most of these returns are filed once a year. These companies are likely not required to file with the Tax Department and should only be filing with the DMV. This increases the percentage of

leasing companies that do not need to file a sales and use tax return with the Tax Department to 65%.

- 35% or 39 leasing companies file and remit sales and use tax to the Tax Commissioner. It is possible that a fraction of these may be paying their tax collected on payments of long term leases to us instead of the DMV.

In addition to being accustomed to filing their returns with the DMV, the leasing companies are also accustomed to completing and filing DMV's exceedingly simple sales tax return, a copy of which is attached. Conversely, both the Tax Department's sales and use tax return and the simplified electronic return (SER) are much more complex, as evidenced by the attached return and SSUTA approved data elements. By requiring the lessor to file a sales and use tax return, especially the simplified electronic return, the leasing companies' computer systems would require changes, thereby placing a burden on the "seller" which is what we, as members of the Governing Board, are trying to avoid. In addition, the simplified electronic return does not support the data elements needed to break out the amount of tax collected on monthly payments of long term leases which would allow deposit into the State Road fund. This would present a tremendous concern for the West Virginia Division of Highways, which relies heavily on State Road Fund monies in order to fulfill its mission of maintaining over 34,000 miles of state roads.

We also note that in multiple sections of the SSUTA, sales and leases of motor vehicles are treated differently than other sales and leases. For example, under Section 302, the retail sale or transfer of motor vehicles is not included in the tax base for local jurisdictions. Under Section 308, member states are generally not permitted to have multiple sales and use tax rates on items of personal property or services; however, this does not apply to the retail sale or transfer of motor vehicles. Under section 323, the caps and thresholds limitations placed on states do not apply to the retail sale or transfer of motor vehicles. These provisions, read *in toto*, indicate a recognition by the Streamlined Governing Board that motor vehicles are a special category of personal property that warrant different treatment under SSUTA.

Conclusion:

The intent of changing the Motor Vehicle Privilege Tax to a Consumers Sales and Service Tax was simply to allow individuals a credit for tax remitted to another state. For the seller/lessor, nothing has changed; the filing/remitting requirements remain the same as under the Privilege Tax. There is no additional burden on the seller/lessor by calling the Privilege Tax a Consumers Sales and Service tax - they still file and pay the same way that they have in the decades prior to 2007.

The application of section 301, the “single entity” requirement will place a burden on the seller/lessor. In addition, the uniform return and remittance language under sections 318 and 319 place a greater burden on these sellers/lessors by requiring them to file a more complex return which would require programming changes to their computer systems. Since the simplified electronic return does not allow the proper data elements for us to be able to separate the tax collected on monthly payments of long term leases of motor vehicles, we would not be able to deposit those funds in into the State Road fund.

We believe the Compliance Review and Interpretation Committee should consider the additional burden placed upon 65% of the motor vehicle lessors in the State of West Virginia, the fact that the data elements needed for depositing tax collected into the State Road fund do not exist and also the actual intent of the legislative change from privilege tax to sales and use tax and find that West Virginia is not out of compliance with SSUTA.

If we are found out of compliance, we would be forced to propose legislative changes to require that tax collected on monthly payments of long term leases of motor vehicles be remitted to the Tax Department instead of DMV. With no way of dedicating those funds to the State Road fund, we will meet considerable resistance from the Division of Motor Vehicles, the Division of Highways, and the Department of Transportation. In addition, the motor vehicle leasing companies may oppose a change due to the filing/remitting requirements that would create an additional burden on them. A settled expectation of leasing companies in West Virginia is that the 5% tax on lease payments be remitted to the West Virginia DMV on a simple, one-page form. To require the leasing companies to instead fill out either the State Tax Department’s form, or a simplified electronic return which are both more complex, would actually do a DISFAVOR to leasing companies.

As discussed above, motor vehicle sales and leases are specifically carved out of multiple sections of SSUTA. This includes rules pertaining to tax bases, tax rates and caps and thresholds.

While there is no specific language in SSUTA that would carve out monthly payments on long term motor vehicle leases from the single entity requirement of section 301, we respectfully request that the Compliance Review and Interpretation Committee weigh these arguments before they confirm their initial decision to find West Virginia out of compliance with section 301 of the Streamlined Sales and Use Tax Agreement (“SSUTA”).

ENROLLED

COMMITTEE SUBSTITUTE

FOR

H. B. 2775

(By Mr. Speaker, (Mr. Thompson) and Delegate Armstead)

[By Request of the Executive]

[Passed March 9, 2007; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-15-3b; and to amend and reenact §17A-3-4 of said code, all relating to the taxation of motor vehicles; providing an exemption for new residents of this state from payment of the privilege tax upon a showing that the applicant was not a resident of this state at the time the vehicle was purchased and the vehicle was properly titled in the applicant's previous state or jurisdiction of residence; providing a period of amnesty; eliminating the five percent tax for privilege of certification of title; imposing a five percent tax on the sale and use of motor vehicles; providing exemptions; and effective date.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §11-15-3b; and that §17A-3-4 of said code be amended and reenacted, all to read as follows:

ARTICLE 15. CONSUMER SALES AND SERVICE TAX.

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

(a) Notwithstanding any provision of this article or article fifteen-a of this chapter to the contrary, beginning on the first day of July, two thousand eight, all motor vehicle sales to West Virginia residents shall be subject to the consumer sales tax imposed by this article.

(b) *Rate of tax on motor vehicles.* -- Notwithstanding any provision of this article or article fifteen-a of this chapter to the contrary, the rate of tax on the sale and use of a motor vehicle shall be five percent of its sale price, as defined in section two, article fifteen-b of this chapter:

Provided, That so much of the sale price or consideration as is represented by the exchange of other vehicles on which the tax imposed by this section or section four, article three, chapter seventeen-a of this code has been paid by the purchaser shall be deducted from the total actual sale price paid for the motor vehicle, whether the motor vehicle be new or used.

(c) *Motor vehicles purchased out of state.*-- Notwithstanding this article or article fifteen-a to the contrary, the tax imposed by this section shall apply to all motor vehicles, used as defined by section one, article fifteen-a, of this chapter, within this state, regardless of whether the vehicle was purchased in a state other than West Virginia.

(d) *Definition of Sale.* -- Notwithstanding any provision of this article or article fifteen-a of this chapter to the contrary, for purposes of this section "sale", "sales" or "selling" means any transfer

or lease of the possession or ownership of a motor vehicle for consideration, including isolated transactions between individuals not being made in the ordinary course of repeated and successive business and also including casual and occasional sales between individuals not conducted in a repeated manner or in the ordinary course of repetitive and successive transactions.

(e) *Definition of Motor Vehicle.* -- For purposes of this section "motor vehicle" means every propellable device in, or upon which any person or property is or may be transported or drawn upon a highway including but not limited to: automobiles; buses; motor homes; motorcycles; motorboats; all-terrain vehicles; snowmobiles; low speed vehicles; trucks, truck tractors, and road tractors having a weight of less than fifty-five thousand pounds; trailers, semitrailers, full trailers, pole trailers, and converter gear having a gross weight of less than two thousand pounds; and motorboat trailers, fold down camping trailers, traveling trailers, house trailers, and motor homes; except that the term "motor vehicle" does not include: modular homes, manufactured homes, mobile homes, similar nonmotive propelled vehicles susceptible of being moved upon the highways but primarily designed for habitation and occupancy; devices operated regularly for the transportation of persons for compensation under a certificate of convenience and necessity or contract carrier permit issued by the Public Service Commission; mobile equipment as defined in section one, article one, chapter seventeen-a of this code; special mobile equipment as defined in section one, article one, chapter seventeen-a of this code; trucks, truck tractors, and road tractors having a gross weight of fifty-five thousand pounds or more; trailers, semitrailers, full trailers, pole trailers and converter gear, having weight of two thousand pounds or greater: *Provided*, That notwithstanding the provisions of section nine, article fifteen, chapter eleven of this code, the exemption from tax under this section for mobile equipment as defined in section one, article one, chapter seventeen-a of this code; special mobile equipment defined in section one, article one, chapter seventeen-a of this code; Class B trucks, truck tractors, and road tractors registered at a gross weight of fifty-five thousand pounds or more; and Class C trailers, semitrailers, full trailers, pole trailers and converter gear, having weight of two thousand pounds or greater; does not subject the sale or purchase of the vehicle to the consumer sales and service tax imposed by section three, of this article.

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

(1) The tax imposed by this section does not apply to any passenger vehicle offered for rent in the normal course of business by a daily passenger rental car business as licensed under the provisions of article six-d of this chapter. For purposes of this section, a daily passenger car means a motor vehicle having a gross weight of eight thousand pounds or less and is registered in this state or any other state. In lieu of the tax imposed by this section, there is hereby imposed a tax of not less than one dollar nor more than one dollar and fifty cents for each day or part of the rental period. The Commissioner of Motor Vehicles shall propose an emergency rule in accordance with the provisions of article three, chapter twenty-nine-a of this code to establish this tax.

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

(3) The tax imposed by this section does not apply where motor vehicle has been acquired by a

senior citizen service organization which is exempt from the payment of income taxes under the United States Internal Revenue Code, Title 26 U.S.C. §501(c)(3) and which is recognized to be a bona fide senior citizen service organization by the Bureau of Senior Services existing under the provisions of article five, chapter sixteen of this code.

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

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

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

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

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

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

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

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

(D) Presents an affidavit, completed by the assessor of the applicant's county of residence, establishing that the vehicle has been properly reported and is on record in the office of the assessor as personal property; and

(E) Makes application to the Division of Motor Vehicles for a title and registration, and pays all other fees required by chapter seventeen-a of this code within thirty days of establishing residency in this state as prescribed in subsection (a), section one-a of this article.

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

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

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

Register before the fifteenth day of June, two thousand eight, those rules may be promulgated as emergency legislative rules, as provided in article three of said chapter twenty-nine-a.

ARTICLE 3. ORIGINAL AND RENEWAL REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.

§17A-3-4. Application for certificate of title; fees; abolishing privilege tax; prohibition of issuance of certificate of title without compliance with consumer sales and service tax provisions; exceptions.

(a) Certificates of registration of any vehicle or registration plates for the vehicle, whether original issues or duplicates, may not be issued or furnished by the Division of Motor Vehicles or any other officer or agent charged with the duty, unless the applicant already has received, or at the same time makes application for and is granted, an official certificate of title of the vehicle in either an electronic or paper format. The application shall be upon a blank form to be furnished by the Division of Motor Vehicles and shall contain a full description of the vehicle, which description shall contain a manufacturer's serial or identification number or other number as determined by the commissioner and any distinguishing marks, together with a statement of the applicant's title and of any liens or encumbrances upon the vehicle, the names and addresses of the holders of the liens and any other information as the Division of Motor Vehicles may require. The application shall be signed and sworn to by the applicant. A duly certified copy of the division's electronic record of a certificate of title is admissible in any civil, criminal or administrative proceeding in this state as evidence of ownership.

(b) A tax is imposed upon the privilege of effecting the certification of title of each vehicle in the amount equal to five percent of the value of the motor vehicle at the time of the certification, to be assessed as follows:

(1) If the vehicle is new, the actual purchase price or consideration to the purchaser of the vehicle is the value of the vehicle. If the vehicle is a used or secondhand vehicle, the present market value at time of transfer or purchase is the value of the vehicle for the purposes of this section: *Provided*, That so much of the purchase price or consideration as is represented by the exchange of other vehicles on which the tax imposed by this section has been paid by the purchaser shall be deducted from the total actual price or consideration paid for the vehicle, whether the vehicle be new or secondhand. If the vehicle is acquired through gift or by any manner whatsoever, unless specifically exempted in this section, the present market value of the vehicle at the time of the gift or transfer is the value of the vehicle for the purposes of this section.

(2) No certificate of title for any vehicle may be issued to any applicant unless the applicant has paid to the Division of Motor Vehicles the tax imposed by this section which is five percent of the true and actual value of the vehicle whether the vehicle is acquired through purchase, by gift

or by any other manner whatsoever, except gifts between husband and wife or between parents and children: *Provided*, That the husband or wife, or the parents or children, previously have paid the tax on the vehicles transferred to the State of West Virginia.

(3) The Division of Motor Vehicles may issue a certificate of registration and title to an applicant if the applicant provides sufficient proof to the Division of Motor Vehicles that the applicant has paid the taxes and fees required by this section to a motor vehicle dealership that has gone out of business or has filed bankruptcy proceedings in the United States bankruptcy court and the taxes and fees so required to be paid by the applicant have not been sent to the division by the motor vehicle dealership or have been impounded due to the bankruptcy proceedings: *Provided*, That the applicant makes an affidavit of the same and assigns all rights to claims for money the applicant may have against the motor vehicle dealership to the Division of Motor Vehicles.

(4) The Division of Motor Vehicles shall issue a certificate of registration and title to an applicant without payment of the tax imposed by this section if the applicant is a corporation, partnership or limited liability company transferring the vehicle to another corporation, partnership or limited liability company when the entities involved in the transfer are members of the same controlled group and the transferring entity has previously paid the tax on the vehicle transferred. For the purposes of this section, control means ownership, directly or indirectly, of stock or equity interests possessing fifty percent or more of the total combined voting power of all classes of the stock of a corporation or equity interests of a partnership or limited liability company entitled to vote or ownership, directly or indirectly, of stock or equity interests possessing fifty percent or more of the value of the corporation, partnership or limited liability company.

(5) The tax imposed by this section does not apply to vehicles to be registered as Class H vehicles or Class M vehicles, as defined in section one, article ten of this chapter, which are used or to be used in interstate commerce. Nor does the tax imposed by this section apply to the titling of Class B vehicles registered at a gross weight of fifty-five thousand pounds or more, or to the titling of Class C semitrailers, full trailers, pole trailers and converter gear: *Provided*, That if an owner of a vehicle has previously titled the vehicle at a declared gross weight of fifty-five thousand pounds or more and the title was issued without the payment of the tax imposed by this section, then before the owner may obtain registration for the vehicle at a gross weight less than fifty-five thousand pounds, the owner shall surrender to the commissioner the exempted registration, the exempted certificate of title and pay the tax imposed by this section based upon the current market value of the vehicle: *Provided, however*, That notwithstanding the provisions of section nine, article fifteen, chapter eleven of this code, the exemption from tax under this section for Class B vehicles in excess of fifty-five thousand pounds and Class C semitrailers, full

trailers, pole trailers and converter gear does not subject the sale or purchase of the vehicles to the consumers sales and service tax.

(6) The tax imposed by this section does not apply to titling of vehicles leased by residents of West Virginia. A tax is imposed upon the monthly payments for the lease of any motor vehicle leased by a resident of West Virginia, which tax is equal to five percent of the amount of the monthly payment, applied to each payment, and continuing for the entire term of the initial lease period. The tax shall be remitted to the Division of Motor Vehicles on a monthly basis by the lessor of the vehicle.

(7) The tax imposed by this section does not apply to titling of vehicles by a registered dealer of this state for resale only, nor does the tax imposed by this section apply to titling of vehicles by this state or any political subdivision thereof, or by any volunteer fire department or duly chartered rescue or ambulance squad organized and incorporated under the laws of this state as a nonprofit corporation for protection of life or property. The total amount of revenue collected by reason of this tax shall be paid into the State Road Fund and expended by the Commissioner of Highways for matching federal funds allocated for West Virginia. In addition to the tax, there is a charge of five dollars for each original certificate of title or duplicate certificate of title so issued: *Provided*, That this state or any political subdivision of this state or any volunteer fire department or duly chartered rescue squad is exempt from payment of the charge.

(8) The certificate is good for the life of the vehicle, so long as the vehicle is owned or held by the original holder of the certificate and need not be renewed annually, or any other time, except as provided in this section.

(9) If, by will or direct inheritance, a person becomes the owner of a motor vehicle and the tax imposed by this section previously has been paid to the Division of Motor Vehicles on that vehicle, he or she is not required to pay the tax.

(10) A person who has paid the tax imposed by this section is not required to pay the tax a second time for the same motor vehicle, but is required to pay a charge of five dollars for the certificate of retitling of that motor vehicle, except that the tax shall be paid by the person when the title to the vehicle has been transferred either in this or another state from the person to another person and transferred back to the person.

(11) The tax imposed by this section does not apply to any passenger vehicle offered for rent in the normal course of business by a daily passenger rental car business as licensed under the provisions of article six-d of this chapter. For purposes of this section, a daily passenger car means a Class A motor vehicle having a gross weight of eight thousand pounds or less and is registered in this state or any other state. In lieu of the tax imposed by this section, there is hereby imposed a tax of not less than one dollar nor more than one dollar and fifty cents for each day or

part of the rental period. The commissioner shall propose an emergency rule in accordance with the provisions of article three, chapter twenty-nine-a of this code to establish this tax.

(12) The tax imposed by this article does not apply to the titling of any vehicle purchased by a senior citizen service organization which is exempt from the payment of income taxes under the United States Internal Revenue Code, Title 26 U.S.C. §501(c)(3) and which is recognized to be a bona fide senior citizen service organization by the senior services bureau existing under the provisions of article five, chapter sixteen of this code.

(13) The tax imposed by this section does not apply to the titling of any vehicle operated by an urban mass transit authority as defined in article twenty-seven, chapter eight of this code or a nonprofit entity exempt from federal and state income tax under the Internal Revenue Code and whose purpose is to provide mass transportation to the public at large designed for the transportation of persons and being operated for the transportation of persons in the public interest.

(14) The tax imposed by this section does not apply to the transfer of a title to a vehicle owned and titled in the name of a resident of this state if the applicant: (A) Was not a resident of this state at the time the applicant purchased or otherwise acquired ownership of the vehicle; (B) Presents evidence as the commissioner may require of having titled the vehicle in the applicant's previous state of residence; (C) Has relocated to this state and can present such evidence as the commissioner may require to show bona-fide residency in this state; (D) Presents an affidavit, completed by the assessor of the applicant's county of residence, establishing that the vehicle has been properly reported and is on record in the office of the assessor as personal property; and (E) Makes application to the division for a title and registration, and pays all other fees required by this chapter within thirty days of establishing residency in this state as prescribed in subsection (a), section one-a of this article: *Provided*, That a period of amnesty of three months be established by the commissioner during the calendar year two thousand seven, during which time any resident of this state, having titled his or her vehicle in a previous state of residence, may pay without penalty any fees required by this chapter and transfer the title of his or her vehicle in accordance with the provisions of this section.

(c) Notwithstanding any provisions of this code to the contrary, the owners of trailers, semitrailers, recreational vehicles and other vehicles not subject to the certificate of title tax prior to the enactment of this chapter are subject to the privilege tax imposed by this section: *Provided*, That the certification of title of any recreational vehicle owned by the applicant on the thirtieth day of June, one thousand nine hundred eighty-nine, is not subject to the tax imposed by this section: *Provided, however*, That mobile homes, manufactured homes, modular homes and similar nonmotive propelled vehicles, except recreational vehicles and house trailers, susceptible

of being moved upon the highways but primarily designed for habitation and occupancy, rather than for transporting persons or property, or any vehicle operated on a nonprofit basis and used exclusively for the transportation of mentally retarded or physically handicapped children when the application for certificate of registration for the vehicle is accompanied by an affidavit stating that the vehicle will be operated on a nonprofit basis and used exclusively for the transportation of mentally retarded and physically handicapped children, are not subject to the tax imposed by this section, but are taxable under the provisions of articles fifteen and fifteen-a, chapter eleven of this code.

(d) Beginning on the first of July, two thousand and eight, the tax imposed under this subsection (b) of this section is abolished and after that date no certificate of title for any motor vehicle may be issued to any applicant unless the applicant provides sufficient proof to the Division of Motor Vehicles that the applicant has paid the fees required by this article and the tax imposed under section three-b, article fifteen, chapter eleven of this code.

(e) Any person making any affidavit required under any provision of this section who knowingly swears falsely, or any person who counsels, advises, aids or abets another in the commission of false swearing, or any person, while acting as an agent of the Division of Motor Vehicles, issues a vehicle registration without first collecting the fees and taxes or fails to perform any other duty required by this chapter or chapter eleven of this code to be performed before a vehicle registration is issued is, on the first offense, guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars or be confined in jail for a period not to exceed six months or, in the discretion of the court, both fined and confined. For a second or any subsequent conviction within five years, that person is guilty of a felony and, upon conviction thereof, shall be fined not more than five thousand dollars or be imprisoned in a state correctional facility for not less than one year nor more than five years or, in the discretion of the court, both fined and imprisoned.

(f) Notwithstanding any other provisions of this section, any person in the military stationed outside West Virginia or his or her dependents who possess a motor vehicle with valid registration are exempt from the provisions of this article for a period of nine months from the date the person returns to this state or the date his or her dependent returns to this state, whichever is later.

(g) No person may transfer, purchase or sell a factory-built home without a certificate of title issued by the commissioner in accordance with the provisions of this article:

(1) Any person who fails to provide a certificate of title upon the transfer, purchase or sale of a factory-built home is guilty of a misdemeanor and, upon conviction thereof, shall for the first offense be fined not less than one hundred dollars nor more than one thousand dollars, or be

confined in jail for not more than one year, or both fined and confined. For each subsequent offense, the fine may be increased to not more than two thousand dollars, with confinement in jail not more than one year, or both fined and confined.

(2) Failure of the seller to transfer a certificate of title upon sale or transfer of the factory-built home gives rise to a cause of action, upon prosecution thereof, and allows for the recovery of damages, costs and reasonable attorney fees.

(3) This subsection does not apply to a mobile or manufactured home for which a certificate of title has been canceled pursuant to section twelve-b of this article.

(h) Notwithstanding any other provision to the contrary, whenever reference is made to the application for or issuance of any title or the recordation or release of any lien, it includes the application, transmission, recordation, transfer of ownership and storage of information in an electronic format.

(i) Notwithstanding any other provision contained in this section, nothing herein shall be considered to include modular homes as defined in subsection (I), section two, article fifteen, chapter thirty-seven of this code and built to the State Building Code as established by legislative rules promulgated by the State Fire Commission pursuant to section five-b, article three, chapter twenty-nine of this code.

```

<?xml version="1.0" encoding="UTF-8"?>
<!-- edited with XMLSpy v2008 (http://www.altova.com) by Oklahoma Tax Commission
(Oklahoma Tax Commission) -->
<xs:schema xmlns:xs="http://www.w3.org/2001/XMLSchema" elementFormDefault="qualified"
attributeFormDefault="unqualified">
    <xs:annotation>
        <xs:documentation>
            <Description>Streamlined Sales Tax Schema - Schema for a State
Streamlined Registration</Description>
        </xs:documentation>
    </xs:annotation>
    <xs:include schemaLocation="SSTPefileTypes.xsd"/>
    <xs:include schemaLocation="SSTPFilingHeader.xsd"/>
    <xs:include schemaLocation="SimplifiedElectronicReturn.xsd"/>
    <xs:include schemaLocation="FinancialTransaction.xsd"/>
    <xs:element name="SimplifiedReturnDocument"
type="SimplifiedReturnDocumentType">
        <xs:annotation>
            <xs:documentation>Simplified Electronic Return
document</xs:documentation>
        </xs:annotation>
    </xs:element>
    <xs:complexType name="SimplifiedReturnDocumentType">
        <xs:annotation>
            <xs:documentation>Content model for
SimplifiedReturnDocument</xs:documentation>
        </xs:annotation>
        <xs:sequence>
            <xs:element name="DocumentId" type="DocumentIdType"/>
            <xs:element name="DocumentType">
                <xs:simpleType>
                    <xs:restriction base="xs:string">
                        <xs:enumeration value="SEROnly"/>
                        <xs:enumeration value="SERWithPayment"/>
                    </xs:restriction>
                </xs:simpleType>
            </xs:element>
        </xs:sequence>
    </xs:complexType>
</xs:element>
</xs:schema>

```

```

        <xs:enumeration value="PaymentOnly"/>
        <xs:enumeration value="PrePayment"/>
    </xs:restriction>
</xs:simpleType>
</xs:element>
<xs:element ref="SSTPFilingHeader"/>
<xs:choice>
    <xs:sequence>
        <xs:element ref="SimplifiedElectronicReturn">
            <xs:annotation>
                <xs:documentation>Monthly simplified
return</xs:documentation>
            </xs:annotation>
        </xs:element>
        <xs:element ref="FinancialTransaction" minOccurs="0">
            <xs:annotation>
                <xs:documentation>Optional Payment with
SER</xs:documentation>
            </xs:annotation>
        </xs:element>
    </xs:sequence>
    <xs:element ref="FinancialTransaction">
        <xs:annotation>
            <xs:documentation>Stand-alone Payment without
SER</xs:documentation>
        </xs:annotation>
    </xs:element>
</xs:choice>
</xs:sequence>
</xs:complexType>
</xs:schema>

```



```

<?xml version="1.0" encoding="UTF-8"?>
<!-- edited with XMLSpy v2006 rel. 3 sp2 (http://www.altova.com) by Terry Garber (SC DEPT
OF REVENUE & TAXATION) -->
<xs:schema xmlns:xs="http://www.w3.org/2001/XMLSchema" elementFormDefault="qualified"
attributeFormDefault="unqualified">
  <xs:include schemaLocation="SSTPefileTypes.xsd"/>
  <xs:element name="SimplifiedElectronicReturn" type="SERType">
    <xs:annotation>
      <xs:documentation>This is the Streamlined Sales Tax report
      </xs:documentation>
    </xs:annotation>
  </xs:element>
  <xs:complexType name="SERType">
    <xs:sequence>
      <xs:element name="ReturnType">
        <xs:simpleType>
          <xs:restriction base="xs:string">
            <xs:enumeration value="O">
              <xs:annotation>
                <xs:documentation>Original
Return</xs:documentation>
              </xs:annotation>
            </xs:enumeration>
            <xs:enumeration value="A">
              <xs:annotation>
                <xs:documentation>Amended
Return</xs:documentation>
              </xs:annotation>
            </xs:enumeration>
          </xs:restriction>
        </xs:simpleType>
      </xs:element>
      <xs:element name="TotalSales" type="AmountType"/>
      <xs:element name="ExemptionsDeductions" type="AmountType"/>
      <xs:element name="ExemptionDeductionBreakout"

```

```

type="ExemptDeductBreakoutType" minOccurs="0" maxOccurs="6"/>
    <xs:element name="TaxableSales" type="AmountType"/>
    <xs:element name="StateTaxDueSalesInState" type="AmountType"/>
    <xs:element name="StateTaxDueSalesOrigOutOfState"
type="AmountType"/>
    <xs:element name="StateTaxDueOwnPurchWithdraw"
type="AmountType"/>
    <xs:element name="StateTaxDueFoodDrug" type="AmountType"/>
    <xs:element name="JurisdictionDetail" type="JurisdictionType"
minOccurs="0" maxOccurs="unbounded"/>
    <xs:element name="TotalTaxDue" type="AmountType"/>
    <xs:element name="InterestDue" type="AmountType" minOccurs="0"/>
    <xs:element name="PenaltyDue" type="AmountType" minOccurs="0"/>
    <xs:element name="Discounts" type="AmountType" minOccurs="0"/>
    <xs:element name="SSTPAllowance" type="AmountType"
minOccurs="0"/>
    <xs:element name="Priorpayments" type="AmountType"
minOccurs="0"/>
    <xs:element name="NewPrepayments" type="AmountType"
minOccurs="0"/>
    <xs:element name="AmountDueOrRefund" type="AmountType"/>
</xs:sequence>
</xs:complexType>
<xs:complexType name="ExemptDeductBreakoutType">
    <xs:sequence>
        <xs:element name="ExemptionType">
            <xs:simpleType>
                <xs:restriction base="xs:string">
                    <xs:enumeration value="Agriculture"/>
                    <xs:enumeration value="DirectPay"/>
                    <xs:enumeration value="GovernmentExemptOrg"/>
                    <xs:enumeration value="Manufacturing"/>
                    <xs:enumeration value="Resale"/>
                    <xs:enumeration value="Other"/>
                </xs:restriction>

```

```

        </xs:simpleType>
    </xs:element>
    <xs:element name="ExemptionAmount" type="AmountType"/>
</xs:sequence>
</xs:complexType>
<xs:complexType name="JurisdictionType">
    <xs:sequence>
        <xs:element name="JurisdictionCode">
            <xs:simpleType>
                <xs:restriction base="xs:string">
                    <xs:minLength value="3"/>
                    <xs:maxLength value="5"/>
                </xs:restriction>
            </xs:simpleType>
        </xs:element>
        <xs:element name="JurisTaxDueSalesInState" type="AmountType"/>
        <xs:element name="JurisTaxDueSalesOrigOutOfState"
type="AmountType"/>
        <xs:element name="JurisTaxDueOwnPurchWithdraw"
type="AmountType" minOccurs="0"/>
    </xs:sequence>
</xs:complexType>
</xs:schema>

```



STATE OF WEST VIRGINIA
State Tax Department, Tax Account Administration Div
P.O. Box 1826
Charleston, WV 25327-1826



Earl Ray Tomblin, Governor

Craig A. Griffith, Tax Commissioner

Letter Id:
 Issued:
 Account #:
 Period:

WV/CST-200CU
 rL141 v.1

WEST VIRGINIA SALES AND USE TAX RETURN

Save the stamp and your time. You can now view, file and pay this tax at <https://mytaxes.wvtax.gov>. DO NOT make any changes to the period indicated on the return. If you need to file a return for a different period, visit our website at www.wvtax.gov.

Period Ending:		<input type="checkbox"/> Amended Return
----------------	--	---

Direct Pay Permit Number:

PART I Sales Tax - State	Column 1 FOOD SALES	Column 2 SALES TO PRIVATE CLUBS	Column 3 ALL OTHER SALES
1. Total Sales (Do not include tax)	.	.	.
EXEMPTIONS FROM SALES TAX			
2. Sales for which an exemption certificate was received	.		.
3. Sales for which a direct pay permit was received	.		.
4. Sales returns, allowances and bad debt	.		.
5. Other deductions/exemptions (food stamps, prescription items, etc.)	.		.
6. Total deductions/exemptions (add lines 2 through 5 of columns 1 & 3)	.		.
7. Sales subject to state sales tax (subtract line 6 from line 1)	.	.	.
8. State Sales Tax Rates	0.03	0.06	0.06
9. Sales Tax Due (multiply line 7 by line 8)	.	.	.
10. Total State Sales Tax (add columns 1, 2 & 3)			.

PART II Use Tax - State (includes purchases made using Direct Pay Permit)

11. Food purchases subject to state use tax	.	0.03	.
12. All other purchases subject to state use tax	.	0.06	.
13. Total State Use Tax (add lines 11 and 12)			.

MAIL TO: WEST VIRGINIA STATE TAX DEPARTMENT
 Tax Account Administration Div
 P.O. Box 1826, Charleston, WV 25327-1826
 FOR ASSISTANCE CALL (304) 558-3333 TOLL FREE (800) 982-8297
 For more information visit our web site at www.wvtax.gov
 File online at <https://mytaxes.wvtax.gov>



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WEST VIRGINIA SALES AND USE TAX RETURN

Letter Id:

PART III Sales Tax - Municipal

MUNICIPAL CODE (See Instructions)		CITY/TOWN NAME		SALES SUBJECT TO MUNICIPAL SALES TAX		TAX RATE	MUNICIPAL TAX DUE (Sales multiplied by rate)	
14a.	54232	14b.	WILLIAMSTOWN	14c.	.	.01	14d.	.
15a.		15b.		15c.	.		15d.	.
16a.		16b.		16c.	.		16d.	.
17a.		17b.		17c.	.		17d.	.
18. Total Municipal Sales Tax (add lines 14d through 17d)								.

PART IV Use Tax - Municipal

MUNICIPAL CODE (See Instructions)		CITY/TOWN NAME		PURCHASES SUBJECT TO MUNICIPAL USE TAX		TAX RATE	MUNICIPAL TAX DUE (Purchases multiplied by rate)	
19a.	54232	19b.	WILLIAMSTOWN	19c.	.	.01	19d.	.
20a.		20b.		20c.	.		20d.	.
21a.		21b.		21c.	.		21d.	.
22a.		22b.		22c.	.		22d.	.
23. Total Municipal Use Tax (add lines 19d through 22d)								.

PART V Total Amount Due

24. Total sales and use taxes (add lines 10, 13, 18 and 23)	24.	.
25. Enter any tax collected in excess of line 10	25.	.
26. Interest	26.	.
27. Additions to tax	27.	.
28. Sales/Use Tax Credit (please specify) <input type="checkbox"/> Credit approved by Tax Department	28.	.
29. Total amount due (add lines 24 through 27 and subtract line 28)	29.	.

FIMS Transfer Sheet is attached Credit/Refund Application is attached Bad Debt Deduction Taken (appropriate documentation must be attached)

PART VI Sign Your Return

Under penalties of perjury, I declare that I have examined this return (including accompanying schedules and statements) and to the best of my knowledge and belief it is true, and complete.

(Signature of Taxpayer)	(Name of Taxpayer - Type or Print)	(Title)	(Date)
(Person to Contact Concerning this Return)		(Telephone Number)	
(Signature of preparer other than taxpayer)	(Address)	(Date)	



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WEST VIRGINIA LEASE SALES TAX RETURN

SUBMIT TO:

West Virginia Division of Motor Vehicles
Dealer Services-Vehicle Leasing Section
5707 MACCORKLE AVE SE
PO BX 17100
CHARLESTON WV 25317

DMV MUST RECEIVE RETURN BY THE LAST DAY OF EACH MONTH

REPORTING PERIOD: _____

COMPANY NAME: _____

LEASE PERMIT #: _____

NUMBER OF VEHICLES IN PROGRAM: _____

TOTAL PAYMENTS: _____

**TAXABLE
PAYMENTS:** _____

TAX LIABILITY: _____

MAKE CHECKS PAYABLE TO THE DIVISION OF MOTOR VEHICLES

I declare under penalties of perjury that this return, including any accompanying schedules and statements has been examined by me and to the best of my knowledge and belief is a true, correct and complete return and report.

Signature

Title

Phone number

Date