

Motor Vehicle Usage Tax

Background Motor vehicles were originally taxed under the 3 percent gross receipts tax that was repealed in 1936. After the repeal of that tax, a special 3 percent tax on motor vehicles was enacted. Effective April 1, 1968, the rate was increased to 5 percent. Effective July 1, 1990, the rate was increased to 6 percent.

Since 1936, the tax was paid to the county clerk when a vehicle is first registered in the owner's name. In 2005, the General Assembly changed the incidence of taxation to the time when the vehicle is titled instead of when it is registered. The proceeds derived from the tax are deposited in the Road Fund to be used in the construction and maintenance of Kentucky's roads.

During FY07, motor vehicle usage tax collections were \$411.3 million, an increase of 4 percent from the previous year. These receipts constituted 33.5 percent of total Road Fund tax receipts.

Current Rate Structure The motor vehicle usage rate is based on 6 percent of the retail price. A credit against the tax is allowed for substantially identical taxes paid to another state or foreign country on vehicles previously registered in such state or country, provided that the other state or country grants a similar credit for taxes paid in Kentucky.

Tax Base The retail price for new motor vehicles is defined as the actual selling price as provided in a notarized affidavit signed by both the buyer and seller. If an affidavit is not submitted, 90 percent of the Manufacturer's Suggested Retail Price, including all standard and optional equipment, and transportation charges, is used. No trade-in allowance is permitted in determining the retail price of a new vehicle. In the case of trucks with gross weight in excess of 10,000 pounds, the tax base is 81 percent of MSRP.

For used vehicles, the retail price is the total consideration paid. A trade-in credit is allowed. The total consideration paid must be disclosed in a notarized affidavit signed by both buyer and seller. If an affidavit is not submitted, the price is defined as the value appearing in the automotive reference manual prescribed by the Department of Revenue. Effective January 1, 2007, the General Assembly established a valuation floor for used motor vehicles.

The value of a used motor vehicle is now based upon the affidavit of total consideration given, unless that value is less than 50 percent of its trade-in as listed in the automotive price reference manuals.

Persons holding a certificate to operate as a U-Drive-It lessee may elect to pay the motor vehicle usage tax based on gross rental or lease charges instead of the retail price of the vehicles. Gross rental charges include only time and mileage charges.

Taxable Unit The tax is levied on the privilege of using a motor vehicle on the public highways of Kentucky, based on the vehicle’s retail price.

Tax Due The tax is paid to the county clerk when the vehicle is titled. The clerk deposits the tax in a Department of Revenue bank account on a daily basis and makes reports to the Department of Revenue on a weekly basis.

Table 13. Total Motor Vehicle Usage Tax Expenditures

| FY 2008 | FY 2009 | FY 2010 |
|----------------|----------------|----------------|
| \$92.9 million | \$96.0 million | \$98.1 million |

Tax Expenditures

1. Adapted Equipment for Physically Handicapped Persons

Kentucky Revised Statute 139.450(12)(c), effective 1992

“Retail Price” does not include that portion of the price of a vehicle attributable to equipment or adaptive devices necessary to facilitate or accommodate a physically handicapped operator or passenger.

| FY 2008 | FY 2009 | FY 2010 |
|----------|----------|----------|
| \$63,000 | \$65,000 | \$67,000 |

2. Change in Business Structure

Kentucky Revised Statute 138.470(8), effective 1980 and 1998

Motor vehicles transferred to a corporation from a proprietorship or limited liability company, to a limited liability company from a corporation or proprietorship, or from a corporation or limited liability company to a proprietorship, within six (6) months from the time that the business is incorporated, organized, or dissolved are exempt.

| FY 2008 | FY 2009 | FY 2010 |
|----------------|----------------|----------------|
| \$260,000 | \$270,000 | \$270,000 |

3. Charter Bus Exemption

Kentucky Revised Statute 138.470(15), effective July 1, 2005

Motor carriers operating under a charter bus certificate issued by the Transportation Cabinet under KRS Chapter 281 are not subject to the Motor Vehicle Usage Tax.

| FY 2008 | FY 2009 | FY 2010 |
|----------------|----------------|----------------|
| \$52,000 | \$54,000 | \$56,000 |

4. Commercial Motor Vehicle Exemption

Kentucky Revised Statute 138.450(5), effective 1968

An exemption is provided commercial motor vehicles, excluding passenger vehicles having a seating capacity of nine persons or less, owned by nonresidents, used primarily in interstate commerce, and based in another state, which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements, and which are registered pursuant to the forced registration provisions.

| FY 2008 | FY 2009 | FY 2010 |
|----------------|----------------|----------------|
| Minimal | Minimal | Minimal |

5. Educational and Charitable Organizations

Kentucky Revised Statute 138.470(2), effective 1968

Motor vehicles sold to institutions of purely public charity and institutions of education, not used or employed for gain, are exempt.

| FY 2008 | FY 2009 | FY 2010 |
|----------------|----------------|----------------|
| \$1.3 million | \$1.3 million | \$1.3 million |

6. Enterprise Zone Exemption

Kentucky Revised Statute 154.45-090(4)and (5), effective 1982

Qualified businesses located within an “enterprise zone” are exempt from the usage tax on vehicles purchased solely for business purposes.

Enterprise Zones are scheduled to expire 20 years after initial designation as a zone. The Hopkinsville enterprise zone is the only one of the original ten enterprise zones in Kentucky still in existence, and it is due to expire on December 21, 2007.

| FY 2008 | FY 2009 | FY 2010 |
|----------------|----------------|----------------|
| \$100,000 | \$0 | \$0 |

7. Enterprise Zone Exemption – U Drive-It Tax

Kentucky Revised Statute 154.45-090(6), effective 1982

This provision exempts receipts derived from short-term rentals of motor vehicles by qualified businesses within an enterprise zone.

| FY 2008 | FY 2009 | FY 2010 |
|----------------|----------------|----------------|
| \$900,000 | \$0 | \$0 |

8. Immediate Family Member

Kentucky Revised Statute 138.470(6), effective 1976, 1992, and 1994

Motor vehicles previously registered in Kentucky and transferred between husband and wife, parent and child, stepparent and stepchild, or grandparent and grandchild are exempt.

| FY 2008 | FY 2009 | FY 2010 |
|----------------|----------------|----------------|
| \$16.9 million | \$17.6 million | \$18.0 million |

9. Insurance Company Transfers

Kentucky Revised Statute 138.470(14), effective 1976

Motor vehicles transferred to an insurance company to settle a claim are exempt. However, such vehicles must be junked or held for resale only.

| FY 2008 | FY 2009 | FY 2010 |
|-----------|-----------|-----------|
| \$104,000 | \$108,000 | \$111,000 |

10. Large Truck Exclusion

Kentucky Revised Statute 138.470, (16) and (17), effective October 1, 2003.

Trucks registered with a gross weight of 44,001 pounds and greater are not subject to the Motor Vehicle Use Tax.

| FY 2008 | FY 2009 | FY 2010 |
|----------------|----------------|----------------|
| \$27.0 million | \$28.3 million | \$28.9 million |

11. Military Exemption

Kentucky Revised Statute 138.470(4), effective 1968

Motor vehicles (both new and used) sold by or transferred from Kentucky dealers to nonresident members of the armed forces on duty in this state are exempt from usage tax.

| FY 2008 | FY 2009 | FY 2010 |
|----------------|----------------|----------------|
| \$6.50 million | \$6.8 million | \$6.9 million |

12. Partnership Interests

Kentucky Revised Statute 138.470(12), effective 1970

The interest of a partner in a motor vehicle is exempt when the interests of other partners are transferred to him.

| FY 2008 | FY 2009 | FY 2010 |
|----------------|----------------|----------------|
| \$104,000 | \$108,000 | \$111,000 |

13. Repossessed Exemption

Kentucky Revised Statute 138.470(13), effective 1972

Motor vehicles that are repossessed by a secured party are exempt provided that the reposessor has acted in accordance with all statutory requirements and the vehicle is held for resale only.

| FY 2008 | FY 2009 | FY 2010 |
|----------------|----------------|----------------|
| \$940,000 | \$980,000 | \$1.0 million |

14. Trade-In Allowance on Used Vehicles

Kentucky Revised Statute 138.450(4), effective 1976

For used vehicles previously registered in Kentucky and subsequently sold in Kentucky, a trade-in allowance is allowed in an amount equal to the value included in the notarized affidavit attesting to total consideration given, or in the absence of a notarized affidavit, the value listed in the reference manual. The allowance is deducted in computing the retail price of the vehicle sold.

| FY 2008 | FY 2009 | FY 2010 |
|----------------|----------------|----------------|
| \$35.0 million | \$36.6 million | \$37.4 million |

15. Transfers Between a Limited Liability Company and its Members

Kentucky Revised Statute 138.470(11), effective 1998

Motor vehicles transferred between a limited liability company and any of its members when there is no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of stock are exempt.

| FY 2008 | FY 2009 | FY 2010 |
|----------------|----------------|----------------|
| \$630,000 | \$650,000 | \$670,000 |

16. Transfers Between a Subsidiary and a Parent Corporation

Kentucky Revised Statute 138.470(10), effective 1970

Motor vehicles transferred between a subsidiary corporation and its parent when there is no consideration, nominal consideration, or in sole consideration of the cancellation or surrender of stock are exempt.

| FY 2008 | FY 2009 | FY 2010 |
|----------------|----------------|----------------|
| \$160,000 | \$163,000 | \$167,000 |

17. Transfers by Will or Court Order

Kentucky Revised Statute 138.470(9), effective 1970, 1990

Motor vehicles transferred by will, court order, or transferred under the statutes covering descent and distribution of property are exempt if previously registered in Kentucky.

| FY 2008 | FY 2009 | FY 2010 |
|----------------|----------------|----------------|
| \$2.9 million | \$3.0 million | \$3.1 million |
