

QUESTIONS AND ANSWERS

The Supplemental Titling Fee for Luxury and “Fuel-Inefficient” Automobiles

What is it?

The “supplemental titling fee” is a one-time fee imposed at the time a **new** vehicle is first titled in the State of New Jersey, in the amount of 0.4% of the sales price or the lease price, as determined in accordance with the rules set forth below. It applies to luxury vehicles and to vehicles deemed to be “fuel inefficient.” Technically, this is a Motor Vehicle fee, not a tax. It is best to refer to it accurately as the “supplemental titling fee” for luxury and fuel-inefficient automobiles, and it must be separately stated on the Retail Order Form.

When does it go into effect?

The supplemental titling fee applies to new “luxury” and “fuel inefficient” automobiles which are delivered **on or after July 15th**. A motor vehicle is required to be titled upon sale. A sale is considered complete at the time of delivery to the buyer. This usually coincides with the time the temporary registration is issued, and this date is often used by the MVC to determine the date of a sale.

What vehicles does it apply to?

The fee only applies to new “passenger automobiles.” For purposes of this fee, the Motor Vehicle Commission considers any vehicle which is **not** registered as “commercial” as a passenger automobile, including light trucks, vans, and SUVs. Commercial vehicles that are registered as Code 15 are also subject to the fee.

The supplemental titling fee applies in either one of two circumstances: it applies to new “luxury” vehicles, those with a “sales price” or “lease price” of \$45,000 or more, excluding sales tax; and it applies to new “fuel inefficient” vehicles, those with an “average” EPA mileage rating of less than 19 miles per gallon. The “average” EPA mileage rating is determined by adding the EPA city rating and the EPA highway rating and dividing this sum by 2. Even if both triggers apply to one vehicle, **the fee is assessed only once.**

*Note: The EPA does not issue mileage ratings for “heavy duty vehicles”—those with a gross vehicle weight rating of over 8,500 lbs. This includes many medium duty trucks, vans, and SUVs that may be registered as personal vehicles in New Jersey. These vehicles are **not** subject to the 0.4% supplemental titling fee, unless the “gross selling price” or “lease price” for such vehicles is over \$45,000.*

Are any vehicles or purchasers exempt from the fee?

The supplemental titling fee does not apply to the following vehicles:

- Vehicles registered with commercial plates.
- Vehicles where the purchaser/lessee is a non-resident of New Jersey and which will not be titled and registered in New Jersey.
- Vehicles with a sales or lease price of over \$45,000, but which have an EPA average fuel efficiency rating of 40 or more miles per gallon.
- Vehicles with a sales price of over \$45,000, but which are certified as a “zero emission vehicle” by the NJ Commissioner of Environmental Protection .
- Vehicles with a sales or lease price of less than \$45,000 but which exceed a net sales or lease price of \$45,000, due to the addition of Handicapped Driver Adaptive Equipment, provided, however, the vehicle’s EPA MPG rating is not less than 19.

How is the “sales price” or “lease price” of a vehicle determined?

The “sales price” is defined as the “gross selling price” appearing on the contract of sale. This should refer to the price of the vehicle, and not sums paid for additional items such as gap coverage or extended warranties. However, it would include amounts paid for options or accessories which become a part of the vehicle such as rims and light racks.

In the case of a lease, the “lease price” is defined as “the capitalized cost as stated in the agreement between a lessor and a lessee.” This appears to refer to the term “gross capitalized cost” that must be itemized in all lease agreements under the U.S. Treasury Department’s Regulation M and the New Jersey Consumer Protection Leasing Act.

Note: The “gross selling price” or “lease price” is based on the vehicle’s price before deducting any credit for a trade-in or manufacturer’s rebate. However, the charge to the customer for any handicapped accessories should be excluded.

Any trade credit which may have been allowed in calculating the sales tax is also taken into account in calculating the supplemental title fee. The “sales price” or “lease price” **must** include the amount of any manufacturer’s rebates. However, the charge to the customer for any handicapped accessories should **not** be included. Note that as a result, in many, if not most cases, the supplemental title fee will **NOT** be based on the same taxable price used to determine the sales tax on a vehicle.

How is the fee calculated?

The supplemental titling fee is equal to 0.4% of the “sales price” or “lease price” of the vehicle, as these terms are defined above.

What procedures and forms will be required by the Motor Vehicle Commission in connection with the supplemental titling fee?

The New Jersey Motor Vehicle Commission has developed a new form (motor vehicle title application) which will be required when titling **all new** motor vehicles on or after July 15, 2006. The form must accompany the MCO for **every** New Jersey title issued—even for those vehicles that are not subject to the additional 0.4% supplemental titling fee, as well as for “titles only” acquired for non-residents to perfect an in-State lien. This application contains a series of questions that will determine whether the supplemental titling fee is applicable, and will contain a space for calculating the fee, in addition to a space for calculating the sales tax due on the transaction. This form will take the place of the sales tax satisfied stamp for title transactions involving all new vehicles. The sales tax stamp will still be utilized in transactions involving used vehicles.

How should it be disclosed to the customer?

The law requires that the supplemental titling fee be “separately stated on any bill, receipt, invoice, or similar document provided to the purchaser and shall not be subject to the retail sales tax.” For most dealerships, which use a Retail Order Form to memorialize transactions, the supplemental titling fee should be separately itemized on that form. In the case of leases, it may be necessary to itemize this fee on the lease agreement itself.

How is it paid over to the State?

The supplemental titling fee will be paid to the State through the Division of Revenue, in a manner similar to the way the New Jersey Sales and Use Tax is remitted. However, the supplemental titling fee will be accounted for and remitted **separately**. Forms and instructions should be promulgated by the Division of Revenue before the first monthly payment becomes due. In the interim, supplemental titling fees (**all 0.4% assessments**) should be collected and held in a separate account for payment to the State.

Note: at this time, it appears that the July and August collections for the supplemental titling fee will not be remitted to the Division of Revenue until September 20, 2006.

How does the levy apply to sales by out-of-state dealers to New Jersey residents?

A New Jersey resident cannot avoid paying the 0.4% assessment by purchasing or leasing a vehicle from an out-of-state dealer. For those out-of-state dealers that are registered with the NJ Division of Taxation, they will be required to collect and remit the additional assessment directly to New Jersey.

For those out-of-state dealers that are not registered with New Jersey, they will be required to pay the 0.4% assessment at the time they title the vehicle at a New Jersey motor vehicle agency.

Sales Tax Increase: Effective Date and Phase-In Questions and Answers

When does the new sales tax rate of 7% take effect?

The new tax rate applies to **all** motor vehicle sales and leases which occur on or after Saturday, July 15, 2006.

When is a sale considered to occur?

For purposes of the phase-in of the sales tax increase, a sale is considered to occur on the **DATE OF DELIVERY** of the vehicle to the buyer or lessee.

If a customer executes an ROF and a retail installment contract, signs over title to his trade-in, and pays all cash down on Friday, July 14th, and then returns to take possession of the vehicle on Saturday, July 15th, which rate applies?

The 7% sales tax applies, since the tax is determined by the **DATE OF DELIVERY**.

The interim rules provide that a sale (or lease) is considered to occur on the day that physical possession of the vehicle is given to the purchaser. The relevant section of the law provides as follows:

Receipts received from all sales made and services rendered on and after July 1, 1992 but prior to July 15, 2006, are subject to [sales tax] . . . at the rate of 6%, except if the property so sold is delivered, or the services so sold are rendered on or after July 15, 2006, in which case the tax shall be computed and paid at the rate of 7%. . .

When is a sale of a part or accessory considered to occur?

Any tangible, physical object which is sold is considered to have been sold on the date of delivery. Therefore, sales of parts and accessories are considered to take place on the day the customer takes possession of them.

When is a sale of a service, such as repair services, considered to have taken place?

Services are considered to have been sold on the date that the service was performed. In the case of repairs, this means the day that the repairs were performed. Thus if a vehicle is repaired on Friday, July 14, but the customer does not pay for the repair and pick up his vehicle until Saturday, July 15, the 6% sales tax will still apply. This also applies to parts used in connection with a repair. It is not necessary to apply one sales tax rate for labor and another for parts.