



Georgia Department of Revenue - Motor Vehicle Division
Title Ad Valorem Tax (“TAVT”)
Informational Bulletin
Trade-In Value for Leased Vehicles (Updated)

July 31, 2014

The purpose of this bulletin is to clarify and explain the appropriate reduction for “Trade-in Value” under O.C.G.A. § 48-5C-1 in the context of leased motor vehicles. This bulletin supersedes all previous bulletins with respect to this subject matter.

POLICY

As a general rule, Trade-in Value can be used to reduce the Fair Market Value of a motor vehicle for Title Ad Valorem Tax (“TAVT”) purposes when exchanged by the titled owner of a motor vehicle who is purchasing another motor vehicle. Likewise, a titled owner of a vehicle who trades in their vehicle to a dealer as part of an agreement to lease another vehicle may claim a trade-in reduction on the Fair Market Value for TAVT purposes.

However, a lessee who returns a leased vehicle titled in the name of a lessor at the expiration of a lease term cannot claim a trade-in reduction on a subsequent lease or purchase for the value of the returned motor vehicle because the lessee is merely relinquishing the first motor vehicle and is not the titled owner of that vehicle.

Similarly, lessors cannot claim a reduction for Trade-In Value when a lessee is relinquishing a motor vehicle as part of the subsequent lease or purchase of another motor vehicle because the imposition of the TAVT is on the lessee and this action does not constitute a trade-in. This limitation applies whether the subsequent lease is made with the same lessor as the first lease or with a different lessor.

AUTHORITY

The TAVT is a replacement for both sales tax and the annual ad valorem tax (i.e., the “birthday tax”). See O.C.G.A. § 48-5C-1(b)(1)(A). The law is clear, however, that TAVT is not a sales tax; rather, TAVT is an “alternative ad valorem tax.” *Id.* In regards to the birthday tax, the law provides that the imposition of that tax in the context of a lease is on the lessee. See O.C.G.A. §§ 40-2-21(a)(.2); 48-5-473(a)(1).

Because the TAVT is also an ad valorem tax, like the birthday tax, it follows that the imposition of the TAVT in the context of a lease is likewise on the lessee. Further, because the lessee is actually paying the TAVT as part of the lease agreement, it follows that the lessee should bear the imposition of the tax and receive any associated reductions.

Therefore, it is the position of the Department of Revenue that in the context of a lease the legal imposition of the TAVT is on the lessee; therefore, any potential trade-in reduction in the context of a lease is tied to the lessee not the lessor.

Below are a number of examples meant to provide an overview of how the above policy works in operation. These examples are illustrative though not exhaustive of the types of transactions that could occur in a leasing context.

EXAMPLES

Example 1: Trade- In Vehicle Titled in Name of Lessee

Facts:

Dealer is a licensed motor vehicle dealer. Lessor is a financial institution. On July 1, 2014, Customer seeks to lease a 2014 model year motor vehicle in Dealer's inventory. Dealer sells the 2014 motor vehicle to Lessor who will be the titled owner. Dealer simultaneously executes a lease of the 2014 motor vehicle on behalf of Lessor to Customer.

Customer offers a 2007 motor vehicle, for which Customer is the titled owner, as a trade-in to Dealer as part of the agreement to lease the 2014 motor vehicle.

Question:

Can the value of the 2007 motor vehicle, owned by Customer, be used as a trade-in to reduce the TAVT liability on the 2014 leased motor vehicle?

Brief Answer:

Yes.

Law:

Fair Market Value is the taxable base upon which the rate of TAVT is applied to determine TAVT liability.¹ Fair Market Value of a motor vehicle in the context of a dealer sale allows for a reduction of Trade-in Value.² “Trade-in Value” means “the value of a vehicle as stated in the bill of sale for a vehicle which has been traded in to the dealer in a transaction involving the purchase of another vehicle from the dealer.”³

Analysis:

Trade-in value can be claimed in this instance. The transfer of the 2007 motor vehicle by Customer satisfies the definition of Trade-in Value and may therefore be used to reduce the Fair Market Value of the motor vehicle that is being leased. Here, Customer is trading in a vehicle titled in his name as part of a transaction involving the lease of another motor vehicle. Although the Lessor will be the titled owner of the leased vehicle, the Customer is responsible for the payment of the TAVT as lessee. Therefore, in calculating the TAVT due from the Customer, Fair Market Value for the leased vehicle can be reduced by the Trade-in Value of the 2007 motor vehicle being traded in by Customer.

Example 2: Vehicle Titled in Name of Lessor; Subsequent Lease from Same Lessor; No Reduction for Lessee

Facts:

Lessor is the financing arm of a major auto manufacturer. Dealer is a licensed franchisee of the manufacturer and offers to sell a new motor vehicle from its inventory to Customer on July 1, 2011.⁴ Instead of purchasing, Customer decides to enter into a 36 month lease of the motor vehicle. Dealer sells the 2011 motor vehicle to Lessor who will be the titled owner. Dealer simultaneously executes a lease of the 2011 motor vehicle on behalf of Lessor to Customer.

Upon expiration of the 2011 lease, Customer relinquishes the motor vehicle to Dealer as he no longer has the legal right to use the motor vehicle. The 2011 motor vehicle that was relinquished by the Customer is acquired by the Dealer from the Lessor.

¹ OCGA § 48-5C-1(a)(1)

² OCGA § 48-5C-1(a)(1)(A),(C)

³ OCGA § 48-5C-1(a)(7)

⁴ These facts involve a franchise manufacturer, its financing arm, and a franchise dealership; however, the law applies equally to licensed used car dealers, private financial institutions and credit unions.

Customer seeks to enter a new lease of a 2014 motor vehicle. Dealer sells the 2014 motor vehicle to Lessor who will be the titled owner. Dealer simultaneously executes a lease of the 2014 motor vehicle on behalf of Lessor to Customer.

Question:

Can Customer reduce his TAVT liability on the 2014 motor vehicle by using the 2011 motor vehicle as a trade-in?

Brief Answer:

No.

Law:

Fair Market Value is the taxable base upon which the rate of TAVT is applied to determine TAVT liability.⁵ Fair Market Value of a leased motor vehicle in the context of a dealer sale allows for a reduction of Trade-in Value.⁶ "Trade-in Value" means "the value of a motor vehicle as stated in the bill of sale for a motor vehicle which has been traded in to the dealer in a transaction involving the purchase of another motor vehicle from the dealer."⁷

Analysis:

Trade-in value cannot be claimed in this instance. Customer is not entitled to a trade reduction because he did not trade-in the 2011 motor vehicle. Rather, Customer relinquished a motor vehicle at the expiration of a lease term. At the end of the lease term, Customer retains no rights in the motor vehicle that he had previously been leasing.

Example 3 – Vehicle Titled in Name of Lessor; Subsequent Lease from Same Lessor; No Reduction for Lessor

Facts:

Lessor is the financing arm of a major auto manufacturer. Dealer is a licensed franchisee of the manufacturer and offers to sell a vehicle from its inventory to Customer on July 1, 2011.⁸ Instead of purchasing, Customer decides to enter into a 36 month lease of the motor vehicle. Dealer sells the 2011 motor vehicle to Lessor who

⁵ OCGA § 48-5C-1(a)(1)

⁶ OCGA § 48-5C-1(a)(1)(A),(C)

⁷ OCGA § 48-5C-1(a)(7)

⁸ These facts involve a franchise manufacturer, its financing arm, and a franchise dealership; however, the law applies equally to licensed used car dealers, private financial institutions and credit unions.

will be the titled owner. Dealer simultaneously executes a lease of the 2011 motor vehicle on behalf of Lessor to Customer.

Upon expiration of the 2011 lease, Customer relinquishes the motor vehicle to Dealer as he no longer has the legal right to use the motor vehicle. The 2011 motor vehicle that was relinquished by the Customer is acquired by the Dealer from the Lessor.

Customer seeks to enter a new lease of a 2014 motor vehicle. Dealer sells the 2014 motor vehicle to Lessor who will be the titled owner. Dealer simultaneously executes a lease of the 2014 motor vehicle on behalf of Dealer to Customer.

Question:

Can Lessor reduce the TAVT liability on the 2014 motor vehicle by using the 2011 motor vehicle as a trade-in?

Brief Answer:

No.

Law:

Fair Market Value is the taxable base upon which the rate of TAVT is applied to determine TAVT liability.⁹ Fair Market Value of a leased motor vehicle in the context of a dealer sale allows for a reduction of Trade-in Value.¹⁰ "Trade-in Value" means "the value of a motor vehicle as stated in the bill of sale for a motor vehicle which has been traded in to the dealer in a transaction involving the purchase of another motor vehicle from the dealer."¹¹

Analysis:

Trade-in Value cannot be claimed in this instance. Although the Lessor is the titled owner of both vehicles, the imposition of the TAVT is on the lessee, and therefore the Lessor may not obtain a reduction for any purported trade-in that occurs when the lessee has relinquished the original vehicle to the Dealer or when the Lessor transfers the vehicle to the Dealer and purchases a subsequent vehicle to be leased to the Customer.

⁹ OCGA § 48-5C-1(a)(1)

¹⁰ OCGA § 48-5C-1(a)(1)(A),(C)

¹¹ OCGA § 48-5C-1(a)(7)

Example 4 - Vehicle Titled in Name of Lessor; Subsequent Lease from Different Lessor; No Reduction for Lessor or Lessee

Facts:

Lessor A is the financing arm of a major auto manufacturer. Dealer is a licensed franchisee of the manufacturer and offers to sell a vehicle from its inventory to Customer on July 1, 2011.¹² Instead of purchasing, Customer decides to enter into a 36 month lease of the motor vehicle. Dealer sells the 2011 motor vehicle to Lessor A who will be the titled owner. Dealer simultaneously executes a lease of the 2011 motor vehicle on behalf of Lessor A to Customer.

Upon expiration of the 2011 lease, Customer relinquishes the motor vehicle to Dealer as he no longer has the legal right to use the motor vehicle. The 2011 motor vehicle that was relinquished by the Customer is acquired by the Dealer from Lessor A.

Customer seeks to enter a new lease of a 2014 motor vehicle with the same Dealer but with a different lessor – Lessor B – who will be the titled owner. Dealer sells the 2014 vehicle to Lessor B and simultaneously executes a new lease on behalf of Lessor B with Customer.

Question:

Can Lessor B reduce the TAVT liability on the 2014 motor vehicle by using the 2011 motor vehicle as a trade-in?

Brief Answer:

No.

Law:

Fair Market Value is the taxable base upon which the rate of TAVT is applied to determine TAVT liability.¹³ Fair Market Value of a leased motor vehicle in the context of a dealer sale allows for a reduction of Trade-in Value.¹⁴ “Trade-in Value” means “the value of a motor vehicle as stated in the bill of sale for a motor vehicle which has been traded in to the dealer in a transaction involving the purchase of another motor vehicle from the dealer.”¹⁵

¹² These facts involve a franchise manufacturer, its financing arm, and a franchise dealership; however, the law applies equally to licensed used car dealers, private financial institutions and credit unions.

¹³ OCGA § 48-5C-1(a)(1)

¹⁴ OCGA § 48-5C-1(a)(1)(A),(C)

¹⁵ OCGA § 48-5C-1(a)(7)

Analysis:

Trade-in Value cannot be claimed in this instance. The mere relinquishment by Customer of a motor vehicle upon expiration of a lease does not constitute a trade by Customer, nor does it constitute a trade-in by Lessor B. Regardless of whether Lessor B becomes the titled owner of the vehicle that is being turned in, Lessor B may not take a trade-in reduction when that lessee returns a vehicle from a lease. Such a transaction does not constitute a trade-in. Further, the imposition of the TAVT is on the lessee, and therefore the Lessor may not obtain a reduction for any purported trade-in that occurs when the lessee has relinquished the original vehicle to the Dealer or when the Lessor transfers the vehicle to the Dealer and purchases a subsequent vehicle to be leased to the Customer.

Example 5 – Vehicle Purchased By Lessee and Titled in their Name; Subsequently Owner (the former lessee) may Use Vehicle as a Trade-in

Facts:

Lessor is the financing arm of a major auto manufacturer. Dealer is a licensed franchisee of the manufacturer and offers to sell a vehicle from its inventory to Customer on July 1, 2011.¹⁶ Instead of purchasing, Customer decides to enter into a 36 month lease of the motor vehicle. Dealer sells the 2011 motor vehicle to Lessor A who will be the titled owner. Dealer simultaneously executes a lease of the 2011 motor vehicle on behalf of Lessor A to Customer.

Upon expiration of the 2011 lease, Customer exercises his option to purchase the vehicle from Lessor A. Upon completion of the sales transaction, Customer is now the titled owner of the vehicle.

Later, Customer seeks to enter a new lease of a 2014 motor vehicle with a different lessor - Lessor B. Dealer sells the 2014 motor vehicle to Lessor B and simultaneously executes a new lease on behalf of Lessor B with Customer.

Customer offers the 2011 motor vehicle, for which Customer is the titled owner, as a trade-in to Dealer as part of the agreement to lease the 2014 motor vehicle.

Question:

Can the value of the 2011 motor vehicle, purchased by Customer at the end of that vehicle's lease term for which Customer is now the titled owner, be used as a trade-in to reduce the TAVT liability on the 2014 leased motor vehicle?

¹⁶ These facts involve a franchise manufacturer, its financing arm, and a franchise dealership; however, the law applies equally to licensed used car dealers, private financial institutions and credit unions.

Brief Answer:

Yes.

Law:

Fair Market Value is the taxable base upon which the rate of TAVT is applied to determine TAVT liability.¹⁷ Fair Market Value of a motor vehicle in the context of a dealer sale allows for a reduction of Trade-in Value.¹⁸ “Trade-in Value” means “the value of a vehicle as stated in the bill of sale for a vehicle which has been traded in to the dealer in a transaction involving the purchase of another vehicle from the dealer.”¹⁹

Analysis:

Trade-in value can be claimed in this instance. The transfer of the 2011 motor vehicle by Customer satisfies the definition of Trade-in Value and may therefore be used to reduce the Fair Market Value of the motor vehicle that is being leased. Here, Customer is trading in a vehicle titled in his name as part of a transaction involving the lease of another motor vehicle. Although Lessor B will be the titled owner of the leased vehicle, the Customer is responsible for the payment of the TAVT as lessee. Therefore, in calculating the TAVT due from the Customer, Fair Market Value for the leased vehicle can be reduced by the Trade-in Value of the 2011 motor vehicle being traded in by Customer.

FOR MORE INFORMATION

For more information on this subject, contact the Motor Vehicle Division at 1-855-406-5221, from 8:00 am to 4:30 pm EST, Monday through Friday, excluding holidays. Persons with hearing or speech impairments may call our TDD number at 404-417-4302.

For forms and other information, visit our websites,

(www.dor.ga.gov and www.newtitletax.com).

¹⁷ OCGA § 48-5C-1(a)(1)

¹⁸ OCGA § 48-5C-1(a)(1)(A),(C)

¹⁹ OCGA § 48-5C-1(a)(7)