

**SALES AND USE TAX REVIEW COMMISSION  
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416**

**BILL NUMBER:**

A-2700

**DATE OF INTRODUCTION:**

February 27, 2006

**SPONSOR:**

Assemblyman Cohen

**DATE OF RECOMMENDATION:**

May 10, 2006

**IDENTICAL BILL:**

**COMMITTEE:**

Assembly Consumer Affairs

**DESCRIPTION:**

Specifies that, for the purpose of calculating sales and use tax, the “receipt” from the casual sale of a motor vehicle shall be the amount shown on the bill of sale.

**ANALYSIS:**

This bill, which would limit the tax base to the amount written on the bill of sale, “notwithstanding any other information available,” is inconsistent with the definition of “sales price” in the Sales and Use Tax Act. The definition in the Act, N.J.S.A. 54:32B-2(oo), was added in 2005 in order to conform New Jersey’s law to the uniform definition in the Streamlined Sales and Use Tax Agreement. P.L. 2005, c.126, sec.1. In addition, the definition of “receipt” was changed at the same time in order to clarify that “receipt” means the same as “sales tax.” N.J.S.A. 54:32B-2(e), as amended by P.L. 2005, c.126. “Sales price” (or “receipt”), as defined in the Sales and Use Tax Act and the streamlining agreement, is the “measure subject to sales tax and means the total amount of consideration, including cash, credit, property, and services, for which property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without deduction for [certain charges enumerated in the Act].” Thus, the streamlining definition focuses on the actual amount of consideration, in any form. This bill would instead allow the calculation of tax due on a motor vehicle purchased in a casual sale to be based on the lesser amount shown on a written bill of sale, even where there is evidence that a greater amount of consideration was actually charged and paid, but not documented on the bill of sale.

This bill would also be clearly contrary to current administrative policies codified in N.J.A.C. 18:24-7.6, which provides that: “Where, because of affiliation of interests between the seller and purchaser, or for any other reason, the purchase price stated for a motor vehicle is not indicative of the true value of the property and purchaser is unable to prove that a lower price was paid, the Director may, at his or her discretion, utilize external indices to establish the basis upon which tax shall be assessed and paid.”

Routine and extensive abuse would become very easy for casual sellers and purchasers, particularly those with family, social, or business connections, who could easily understate the price of a vehicle on any bill of sale, to enable a relative or associate to evade part of the sales tax obligations. Transfers of vehicles for consideration other than monetary consideration, including but not limited to barter transactions, would also be able to escape taxation if the dollar value of the bartered item or other non-monetary consideration is not set forth on the document.

**RECOMMENDATION:**

The Commission opposes enactment of this Bill.

**COMMISSION MEMBERS FOR PROPOSAL: 0**

**COMMISSION MEMBERS AGAINST PROPOSAL: 7**

**COMMISSION MEMBERS ABSTAINING: 1**