



The Motor Vehicle Rental Surcharge and the Tourism Account Surcharge

Purpose: This Policy Statement describes the tourism account surcharge and the motor vehicle rental surcharge, including 2002 legislation that makes the motor vehicle rental surcharge applicable to the rental of any rental truck, as defined below.

Effective Date: Effective July 1, 2002.

Statutory Authority: Conn. Gen. Stat. §§12-665 through 12-668 and §12-692, as amended by 2002 Conn. Pub. Acts 70, §85

Part I. Tourism Account Surcharge

Definitions: As used in this Policy Statement and for purposes of the *tourism account surcharge*:

Passenger motor vehicle means every vehicle that is a passenger motor vehicle, as defined in Conn. Gen. Stat. §14-1(a)(59). That definition provides that a passenger motor vehicle is “a motor vehicle used for the private transportation of persons and their personal belongings, designed to carry occupants in comfort and safety, with not less than fifty per cent of the total area enclosed by the outermost body contour lines, excluding the area enclosing the engine, as seen in a plan view, utilized for designated seating positions and necessary legroom with a capacity of carrying not more than ten passengers including the operator thereof.”

Lessor means any person licensed by the Connecticut Department of Motor Vehicles (DMV) under Conn. Gen. Stat. §14-15 to engage in the business of leasing or renting motor vehicles without drivers in this state.

Day means each day, or portion of a day, for which a lessor charges a lessee for the lease or rental of a passenger motor vehicle. For example, a lessee rents a passenger motor vehicle on 8 a.m. one day, and returns it before 8 a.m. the following day. If the lessor charges one day’s rental to the lessee, the lessor imposes a \$1 surcharge only, even though the rental period includes a portion of two calendar days.

Imposition of the Tourism Account Surcharge: A \$1 per day tourism account surcharge is imposed on every lessor for the rental or lease of a passenger motor vehicle, if the vehicle is delivered to a lessee in Connecticut for a period of 30 consecutive calendar days or less. The surcharge does not apply to the rental or lease of a rental truck (as defined below). The surcharge applies regardless of where the vehicle is subsequently used or ultimately dropped off. The tourism account surcharge is added to the total amount that the lessor charges for the rental of the vehicle. The 6% Connecticut sales tax is not charged or collected on the tourism account surcharge.

Filing of Return and Payment of the Tourism Account Surcharge: On or before the last day of the month following the end of each calendar quarter, each lessor must file **Form OP-337, Tourism Account Surcharge Return on the Rental/Leasing of Passenger Motor Vehicles**, with the Department of Revenue Services (DRS). The lessor lists on **Form OP-337** the number and rental period of all passenger motor vehicles leased during the preceding reporting period and the amount of tourism account surcharge for the period. If the total tourism account surcharge liability for the twelve-month period ending on September 30 was \$4,000 or more, DRS may require the lessor to file returns and pay the tourism account surcharge on a monthly basis.

Rentals Not Subject to Tourism Account Surcharge: If a passenger motor vehicle is delivered to a lessee outside Connecticut or if the rental is for a term of more than 30 consecutive calendar days, the rental is **not subject** to the tourism account surcharge, regardless of where the vehicle is subsequently used or ultimately dropped off.

In addition, if a lessee rents a passenger motor vehicle from a person that is *not* a lessor or rents a motor vehicle *other than* a passenger motor vehicle, the rental is **not subject** to the tourism account surcharge.

United States Government: A rental of a passenger motor vehicle by an agency of the U.S. government is **not subject** to the tourism account surcharge as long as the agency (and not one of its employees) is the lessee.

United States Government Employees: The rental of a passenger motor vehicle by an employee of a U.S. government agency is **subject** to the tourism account surcharge unless the rental company directly invoices and charges the agency for the rental and the agency directly pays the rental company for the rental. The agency must pay with a check drawn on its own account or with a credit card issued in its name (and not in the name of one of its employees, unless the credit card is an exempt “GSA SmartPay” card). Subject to the conditions in **Policy Statement 2000(1.1), Retailer’s Acceptance of U.S. Government “GSA SmartPay” Credit Card for Exempt Purchases**, a rental of a passenger motor vehicle by an employee of a U.S. government agency using an exempt “GSA SmartPay” credit card issued in the name of the employee is **not subject** to the tourism account surcharge. However, a rental by an employee of a U.S. government agency using any other credit card issued in the name of the employee or paying cash is **subject** to the surcharge.

Diplomats: Subject to the conditions in **Policy Statement 93(2), Sales and Use Tax Exemptions for Diplomatic Personnel**, the rental of a passenger motor vehicle by a diplomat is **not subject** to the surcharge.

All Other Rentals Subject to the Tourism Account Surcharge: All other leases or rentals of passenger motor vehicles for a term of 30 consecutive calendar days or less are **subject** to the tourism account surcharge. This includes leases or rentals that are exempt from sales and use taxes, such

as leases or rentals to an agency of the State of Connecticut (or an employee of the agency), a Connecticut municipality (or an employee of the municipality), or a tax-exempt organization.

Part II. Motor Vehicle Rental Surcharge

Definitions: As used in this Policy Statement and for purposes of the *motor vehicle rental surcharge*:

Passenger motor vehicle means every vehicle that is a passenger motor vehicle, as defined in Conn. Gen. Stat. §14-1(a)(59) (see above), that is rented without a driver and that is part of a motor vehicle fleet of five or more passenger motor vehicles used for rental purposes by a rental company. A passenger motor vehicle may be registered either with DMV or with a similar department of another state.

Rental truck means (A) a vehicle rented without a driver that has a gross vehicle weight rating of 26,000 pounds or less and that is used in the transportation of personal property, but not for business purposes; **or** (B) a trailer that has a gross vehicle weight rating of not more than 6,000 pounds.

Rental company means any business entity engaged in the business of renting passenger motor vehicles or rental trucks without drivers in Connecticut to lessees and that uses for rental purposes a motor vehicle fleet of five or more passenger motor vehicles or rental trucks in Connecticut.

Rental company does **not** include any person, firm, or corporation licensed or required to be licensed under Conn. Gen. Stat. §14-52 as a new car dealer, repairer, or limited repairer. Rental company also does **not** include any person, firm, or corporation licensed or required to be licensed under Conn. Gen. Stat. §14-52 as a used car dealer, if the person, firm, or corporation is not primarily engaged in the business of renting passenger motor vehicles or rental trucks without drivers in Connecticut to lessees. Any affiliated or related person, firm, or corporation that is otherwise a rental company but is not itself licensed or required to be licensed under Conn. Gen. Stat. §14-52 as a new car dealer, used car dealer, repairer, or limited repairer is included in the definition of rental company.

Lessee means any person who rents a passenger motor vehicle or rental truck from a rental company for the person’s own use and not for rental to others.

Imposition of the Motor Vehicle Rental Surcharge: A 3% motor vehicle rental surcharge is imposed on the total amount that a rental company charges a lessee for the rental of a passenger motor vehicle or rental truck, where the passenger motor vehicle or rental truck is delivered to a lessee in Connecticut for a period of **30 consecutive calendar days or less**. The surcharge applies regardless of where the passenger motor vehicle or rental truck is subsequently used or ultimately dropped off. The rental contract must separately state the amount of the motor vehicle rental surcharge. The rental surcharge is added to the total amount that the rental company charges the lessee for the rental of the passenger motor vehicle or rental truck. The 6% Connecticut sales tax must be charged and collected on that sum.

The motor vehicle rental surcharge applies to the rental of rental trucks on or after July 1, 2002, only.

Filing of Return and Payment of the Motor Vehicle Rental Surcharge: On or before **February 15** annually, each rental company must file **Form OP-383, Motor Vehicle Rental Surcharge Report**, with DRS and report the total motor vehicle rental surcharge actually collected on the rental of passenger motor vehicles and rental trucks by the rental company to lessees during the preceding calendar year. Each rental company must also remit with **Form OP-383** the portion of the total motor vehicle rental surcharge collected that exceeds the **sum** of:

- The personal property tax that it actually paid during the year to any Connecticut municipality on passenger motor vehicles and rental trucks that were rented by it to lessees during the year; **and**
- The registration and titling fees that it actually paid during the year to DMV on the vehicles.

The rental company is not entitled to keep any excess and must pay it over to DRS with **Form OP-383**.

In determining whether there is any excess, a rental company must take into account the personal property taxes that it actually paid during the entire calendar year to any Connecticut municipality on rental trucks, even though the motor vehicle rental surcharge applies only to the rental of rental trucks on or after July 1, 2002, only. The same rule applies for registration and titling fees.

Where any rental company does not own one or more of the passenger motor vehicles or rental trucks that it rents to lessees, but leases those rental vehicles from another person (such as the owner), this sum may include any property tax and registration and titling fees that the rental company is contractually required to pay, and does pay, during the calendar year to the other person with respect to the passenger motor vehicles or rental trucks, if the other person pays the property tax to a Connecticut municipality and the fees to DMV.

Rentals Not Subject to the Motor Vehicle Rental Surcharge: If a passenger motor vehicle or rental truck is delivered to a lessee outside Connecticut or if the rental is for a term of more than 30 consecutive calendar days, the rental is **not subject** to the motor vehicle rental surcharge, regardless of where the vehicle is subsequently used or ultimately dropped off. If a motor vehicle *other than* a passenger motor vehicle or rental truck is rented to a lessee, the rental is **not subject** to the motor vehicle rental surcharge.

If a person that is *not* a rental company (such as any person, firm, or corporation that is licensed or required to be licensed under Conn. Gen. Stat. §14-52 as a new car dealer, repairer, or limited repairer) rents a passenger motor vehicle or rental truck to a lessee, the rental is **not subject** to the motor vehicle rental surcharge. However, if the person is not itself a party to the rental agreement and merely facilitates the rental of the passenger motor vehicle or rental truck to the lessee by a third party that is itself a rental company, the rental is subject to the surcharge.

For example, if a person licensed or required to be licensed under Conn. Gen. Stat. §14-52 as a repairer:

- Arranges for a customer to rent a passenger motor vehicle from a third party rental company, **and**
- The rental agreement is between the customer and the third party rental company,

the rental is **not** considered a rental by the repairer and is subject to the motor vehicle rental surcharge.

United States Government: A rental of a passenger motor vehicle or rental truck by an agency of the U.S. government is **not subject** to the motor vehicle rental surcharge as long as the agency (and not one of its employees) is the lessee.

United States Government Employees: A rental by an employee of a U.S. government agency is **subject** to the motor vehicle rental surcharge, unless the rental company directly invoices and charges the U.S. government agency for the rental and the agency directly pays the rental company for the rental. The agency must pay with a check drawn on its own account or with a credit card issued in the agency's name (and not in the name of one of its employees, unless the credit card is an exempt "GSA SmartPay" card). Subject to the conditions in **Policy Statement 2000(1.1)**, a rental of a passenger motor vehicle or rental truck by an employee of a U.S. government agency using an exempt "GSA SmartPay" credit card issued in the name of the employee is **not subject** to the motor vehicle rental surcharge. However, a rental by an employee of a U.S. government agency using any other credit card issued in the name of the employee or paying in cash is **subject** to the surcharge.

Diplomats: Subject to the conditions in **Policy Statement 93(2)**, the rental of a passenger motor vehicle or rental truck by a diplomat is **not subject** to the surcharge.

All Other Rentals Subject to the Motor Vehicle Rental Surcharge: All other leases or rentals of passenger motor vehicles and rental trucks for a term of 30 consecutive calendar days or less are **subject** to the motor vehicle rental surcharge. This includes leases or rentals that are exempt from sales and use taxes, such as leases or rentals to an agency of the State of Connecticut (or an employee of the agency), a Connecticut municipality (or an employee of the municipality), or a tax-exempt organization.

Part III. Application of the Two Surcharges and the Sales and Use Taxes

Typically, if one of the surcharges applies to the lease or rental of a passenger motor vehicle, the other surcharge applies as well. However, there are exceptions.

Where the motor vehicle rental surcharge applies, but the tourism account surcharge does not:

The motor vehicle rental surcharge applies to the lease or rental of a rental truck, but the tourism account surcharge does not.

Where the tourism account surcharge applies, but the motor vehicle rental surcharge does not:

- A new car dealer, repairer, or limited repairer that is licensed or required to be licensed by DMV under Conn. Gen. Stat. §14-52 and that is also licensed by DMV to lease or rent motor vehicles under Conn. Gen. Stat. §14-15 must charge and collect the tourism account surcharge on its motor vehicle leases or rentals, but is not required to charge and collect the motor vehicle rental surcharge.
- A used car dealer that is licensed or required to be licensed by DMV under Conn. Gen. Stat. §14-52 and that is also licensed by DMV to lease or rent motor vehicles under Conn. Gen. Stat. §14-15, but that is not primarily engaged in the business of renting passenger motor vehicles or rental trucks without drivers in Connecticut to lessees, must charge and collect the tourism account surcharge on its leases or rentals of passenger motor vehicles, but is not required to charge and collect the motor vehicle rental surcharge.

The motor vehicle rental surcharge is *in addition to* the tourism account surcharge. However, the tourism account surcharge is not included in the amount on which either the sales tax or the motor vehicle rental surcharge must be charged or collected. On the other hand, the motor vehicle rental surcharge is included in the amount on which the sales tax must be charged and collected.

Amounts to which sales and use taxes apply and to which the motor vehicle rental surcharge also applies:

Typically, if sales and use taxes apply (or would apply but for a sales and use tax exemption) to the lease or rental of a passenger motor vehicle or rental truck, the motor vehicle rental surcharge applies as well.

- Rental charges to which sales and use taxes apply under Conn. Agencies Regs. §12-426-25(c) are also charges to which the motor vehicle rental surcharge applies. These include, but are not limited to: maintenance and service charges, cancellation charges, and transportation charges for delivery to the lessee, whether or not these amounts are separately stated. Rental charges to which sales and use taxes do not apply under Conn. Agencies Regs. §12-426-25(c) are charges to which the motor vehicle rental surcharge does not apply. These include the cost of gasoline or insurance when these amounts are separately

stated and the lessee has the option to either accept or reject the rental company's offer.

- The tourism account surcharge is not included in the amount on which either sales and use taxes or the motor vehicle rental surcharge must be charged or collected.
- The motor vehicle rental surcharge is included in the amount on which sales and use taxes must be charged and collected. However, sales and use taxes are not included in the amount on which the motor vehicle rental surcharge must be charged and collected.

Example: A rental company rents a passenger motor vehicle to a lessee for five days. The total amount that the rental company charges the lessee for the rental of the motor vehicle is \$40 per day.

Application of the motor vehicle rental surcharge, sales tax, and tourism account surcharge:

Rental charge (\$40 multiplied by 5 days)	\$200.00
Motor vehicle rental surcharge (3% , or .03 multiplied by \$200)	+ <u>6.00</u>
Amount on which sales tax must be charged and collected	\$206.00
Sales tax (6% , or .06 multiplied by \$206)	+ <u>12.36</u>
Subtotal	\$218.36
Tourism account surcharge (\$1 multiplied by 5 days)	+ <u>5.00</u>
Total	\$223.36

Effect on Other Documents: This Policy Statement modifies and supersedes **Policy Statement 2000(5)**, *The Motor Vehicle Rental Surcharge and the Tourism Account Surcharge*, which may not be relied upon on or after the date of issuance of this Policy Statement.

PS 2002(5)
Sales and Use Taxes
Motor Vehicle Rental Surcharge
Tourism Account Surcharge
Issued: 11/20/02

Effect of This Document: A Policy Statement is a document issued by DRS that explains in depth a current position, policy, or practice affecting the tax liability of taxpayers.

For Further Information: Please call DRS during business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday:

- **1-800-382-9463** (in-state), or
- **860-297-5962** (from anywhere)

TTY, TDD, and Text Telephone users only may transmit inquiries 24 hours a day by calling 860-297-4911.

Forms and Publications: Forms and publications are available all day, seven days a week:

- **Internet:** Preview and download forms and publications from the DRS Web site: www.drs.state.ct.us
- **DRS TAX-FAX:** Call **860-297-5698** from the handset attached to your fax machine and select from the menu.
- **Telephone:** Call **860-297-4753** (from anywhere), or **1-800-382-9463** (in-state) and select **Option 2** from a touch-tone phone.

Paperless Filing Methods (fast, easy, free, and confidential):

- **For business returns:** Use *Fast-File* to electronically file sales and use taxes, business use tax, room occupancy tax, or withholding tax returns over the internet or telephone. Visit the DRS Web site at: www.drs.state.ct.us and click on *Business Taxes Fast File Program*.
- **For resident income tax returns:** Use *WebFile* to file personal income tax returns over the Internet. Visit the DRS Web site at: www.drs.state.ct.us and click on *Income Tax Web Filing*.