



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 25, 1997

The Honorable Ken Armbrister  
Chair, State Affairs Committee  
Texas State Senate  
P.O. Box 12068  
Austin, Texas 78711

Letter Opinion No. 97-013

Re: Whether car rental companies may collect a separate reimbursement charge for title and registration fees and ad valorem taxes paid on rental car fleet (ID # 39185)

Dear Senator Armbrister:

You ask our opinion regarding the collection by car rental companies from car renters of a reimbursement charge for title and registration fees and ad valorem taxes. You inform us that it is and has been the practice of car rental companies in Texas to include in each rental agreement a pro rata charge to reimburse the companies for amounts paid during the preceding calendar year for title fees, registration fees, and ad valorem property taxes on the companies' rental car fleet. The past and current practice of the car rental companies you state is first, to disclose the reimbursement charge at the time of booking a rental car and second, to separately identify the reimbursement charge as such on the face of the car rental agreement. You advise us further that the Seventy-fourth Legislature passed House Bill 2151, Act of May 18, 1995, 74th Leg., R.S., ch. 394, § 1, 1995 Tex. Gen. Laws 2940, 2946, effective September 1, 1995, (the "act"), to specifically authorize this practice. Such legislation provides as follows:

A person required to register under Section 152.065,<sup>1</sup> Tax Code, may include in each customer agreement a separate charge for the proportionate amount of title fees, registration fees, and property taxes paid in the preceding calendar year on their vehicle fleet. If a person includes such charge, it must be done on a nondiscriminatory basis and shall be collected in all agreements except those which are exempt from the taxes imposed in Section 152.026,<sup>2</sup> Tax Code. [Footnotes added.]

You specifically ask whether the practice of collecting reimbursement charges prior to and after September 1, 1995, is lawful, provided that the reimbursement charge is disclosed to the renter as a separate, identified charge and is subject to the state gross rental receipt tax. It is our view that as a general matter there is no legal prohibition against the collection of reimbursement charges.

---

<sup>1</sup>Section 152.065 of the Tax Code requires a motor vehicle owner required to collect, report and pay a tax on gross rental receipts under chapter 152 of the Tax Code and to register with the comptroller of public accounts. Section 152.026 of the Tax Code imposes a tax on the gross rental receipts from the rental of a rented motor vehicle.

<sup>2</sup>See *supra* note 1.

Whether in a particular case a company has complied with the law, however, is clearly outside the scope of an attorney general opinion.

Under Texas law, all personal property, including a rental motor vehicle, over which the state has jurisdiction, is subject to property tax, unless specifically exempted. *See* Tax Code §§ 11.01, .14; Letter Opinion No. 96-030 (1996). Such taxes are assessed and paid by the owner of the property. *See, e.g.*, Tax Code §§ 22.01, 31.01. Additionally, an owner of a motor vehicle used on the state public highways must register the vehicle with the Department of Transportation and pay a registration fee. *See* Transp. Code §§ 502.002, .161. The owner of a motor vehicle registered in the state is also required to obtain a certificate of title and pay a certificate of title fee. *See id.* §§ 501.022, .138. Thus, a rental car company in Texas is required to pay ad valorem property taxes and certificate of title and registration fees on its fleet of rental cars.

Whether a rental car company may pass on the cost of the property taxes and certificate of title and registration fees that the company has paid to the car renters by collecting a reimbursement charge appears to be a matter of contract between the parties involved. We have been unable to find a legal prohibition against this practice. Federal and state law may, however, require a car rental company to adequately disclose to the renter the reimbursement charges for taxes and fees collected from the renter. *See* 15 U.S.C. §§ 1667(3) (Consumer Leasing Act, defining "lessor"), 1667a(3) (lessor must disclose amounts paid or payable for official fees, registration, certificate of title, or license fees, or taxes); 12 C.F.R. § 213.4 (implementing Consumer Leasing Act); Bus. & Com. Code § 17.46 (acts and representations constituting deceptive trade practices). Assuming adequate disclosures were made, such practice would appear to have been lawful prior to September 1, 1995. With the passage of the act, the Texas Legislature has expressly, although unnecessarily, sanctioned this practice of collecting the reimbursement charge. Thus, if the reimbursement charge, subsequent to September 1, 1995, was and is included in a rental car agreement it must be shown as a separate charge, done so on a nondiscriminatory basis and collected in all agreements not exempt from gross rental receipts tax. Assuming adequate disclosures were and are made, such practice would appear to be lawful. We reiterate, however, that whether in a particular case a car rental company has complied with the law is outside the scope of an attorney general opinion.

S U M M A R Y

There was no legal prohibition prior to September 1, 1995, against the collection by car rental companies from car renters of a reimbursement charge for certificate of title and registration fees and property taxes paid on rental car fleet. Legislation effective September 1, 1995, expressly authorizes this practice. Assuming adequate disclosures were and are made, such practice appears lawful. Whether in a particular case, a company has complied with the law is outside the scope of an attorney general opinion.

Yours very truly,

*Sheela Rai*

Sheela Rai  
Assistant Attorney General  
Opinion Committee