

CHAPTER 57-32
TAXATION OF EXPRESS AND AIR TRANSPORTATION COMPANIES

57-32-01. Applicability of public utility laws.

1. The provisions of chapter 57-06 not in conflict with this chapter apply to the assessment of express companies and air transportation companies.
2. For purposes of this chapter, an "air carrier transportation company" or "air transportation company" includes any other certified air carrier that:
 - a. Shares a flight designator code with the air carrier transportation company;
 - b. Operates under the same trade name as the air carrier transportation company;
or
 - c. Operates under the same livery as the air carrier transportation company.

57-32-01.1. Property assessed in lieu of registration fees and sales and use taxes.

The taxes imposed by chapters 57-06, 57-07, 57-08, 57-13, and this chapter on air carrier transportation property are in lieu of the registration fees imposed by section 2-05-11 and are in lieu of sales and use taxes which would otherwise be imposed on the sale, storage, use, or consumption of air carrier transportation property except for the provisions of sections 57-39.2-04 and 57-40.2-04.

57-32-01.2. Method of valuation.

All of the operative property within North Dakota of each air carrier transportation company which is defined as real property under section 57-02-04 must be valued for assessment purposes by the tax commissioner and the state board of equalization. For the purpose of determining the value of the operative property within North Dakota of each air transportation company, the tax commissioner and the state board of equalization shall take into consideration legally established evidences of value that enable the tax commissioner and the state board of equalization to make a just and equitable assessment.

57-32-01.3. Allocation of value.

Repealed by S.L. 1987, ch. 684, § 3.

57-32-02. Assessment and computation of tax.

The tax commissioner, after the provisions of chapter 57-06 have been complied with and final assessment has been made by the state board of equalization, shall compute a tax upon the valuation fixed as is provided by law for the assessment of other utilities. Such a tax must be computed by applying to that portion of the valuation which by law is subject to tax the average millage rate, which is obtained by dividing the total taxable valuation of all property within this state for the current year, into the total of all state and local taxes assessed within the state on a millage basis for the current year. The tax for air transportation companies must be computed by applying, to that portion of the valuation which by law is subject to the tax, the average millage rate which is obtained by dividing the total taxable valuation of all property for the current year, within all cities operating an airport served by scheduled airlines in North Dakota, into the total of all state and local taxes assessed within all such cities on a millage basis for the current year.

57-32-03. Tax statements prepared by state tax commissioner - When due and delinquent.

On or before the thirty-first day of March in each year, the tax commissioner shall provide each company assessed under the provisions of this chapter a statement of its taxes due for the preceding year, with the valuations and taxes assessed in each case. Such taxes are due upon the fifteenth day of April next following the date of the statement of taxes due. The taxes become delinquent on the first day of May next following the due date and, if not paid on or before said date, are subject to a penalty of two percent and, on June first following delinquency, an additional penalty of two percent and, on July first following delinquency, an additional penalty of two percent and, on October fifteenth

following delinquency. From and after January first of the year following the year in which the taxes became due and payable, simple interest at the rate of twelve percent per annum upon the principal of the unpaid taxes must be charged until such taxes and penalties are paid, with such interest charges to be prorated to the nearest full month for a fractional year of delinquency. All the provisions of the law respecting delinquency of personal property assessments generally so far as may be consistent with the provisions of this chapter are applicable equally to the assessments and taxes provided for in this chapter.

57-32-04. Allocation of tax.

The taxes imposed by this chapter upon express companies must be collected by the state tax commissioner and transferred to the state treasurer for deposit in the state general fund.

The taxes imposed by this chapter upon air transportation companies must be collected by the state tax commissioner and deposited with the state treasurer, who shall credit the same to the air transportation fund, but within ninety days after receipt thereof, these funds must be allocated and remitted as herein provided by the state treasurer to the cities or municipal airport authorities where such transportation companies make regularly scheduled landings. The taxes collected from each company must be allocated to each city or municipal airport authority where that company makes regularly scheduled landings by multiplying the total tax collected by a fraction, the numerator of which is the value of the company's property at a given city or municipal airport and the denominator of which is the total value of the property located in North Dakota that is subject to the assessment. It is the duty of the tax commissioner to certify to the state treasurer the names of such air transportation companies and the amount of tax of each company that must be allocated by the state treasurer to each city or municipal airport authority.

57-32-05. Collection of tax.

If any tax required to be paid by any company under the provisions of this chapter has not been paid on or before October first of the year following the year of delinquency, the state tax commissioner shall seize personal property belonging to such company found within this state, sufficient to pay the amount of such tax with penalty and interest. The state tax commissioner, immediately after seizing said property, shall proceed to advertise the same for sale by publishing a notice at least two times in a newspaper published in Burleigh County. Such notice must describe the property seized, the amount of the tax and penalty for which the property has been seized, and the day and hour when and the place where said property will be sold. If the tax and penalty, with interest due thereon, have not been paid before the time appointed for sale, which may not be less than ten days after the first publication of such notice, the state tax commissioner shall proceed to sell such property, or so much thereof as may be necessary, to pay such tax, penalty, interest, and the costs of such seizure and sale, at public auction to the highest bidder.

57-32-06. Legal proceedings to enforce payment of tax.

If the state tax commissioner is unable to find within this state sufficient personal property belonging to any company charged with the taxes prescribed by this chapter, to pay the same, with the penalty and interest thereon, the state tax commissioner shall notify the attorney general of the amount of such delinquent taxes, with penalty and interest accrued thereon, and it is the duty of the attorney general to institute an action in the district court of Burleigh County to collect the same. Upon the institution of any such action, an attachment may be issued and any property owned by such company may be attached.